

1 **[JACK MAHAR - By Ms. Bosman]**

2 because Mr. Loveridge retired?

3 A. I don't know what -- to answer your
4 question I'm not sure what happened to it. Did
5 it get reassigned to someone else? Did something
6 happen? I can't answer that. I don't know the
7 answer.

8 Q. Did Mr. Karam indicate to you he needed
9 support staff?

10 A. He asked for more help in training.

11 Q. Did you give it to him?

12 A. He didn't have it at the time.

13 Q. Do you now?

14 A. We are better staffed now than we had in
15 the past but we are still down quite a few
16 people.

17 Q. When you received Dr. Denea's report -- I
18 guess you didn't receive it?

19 A. It went to, I think Attorney Goldberger
20 received it and then informed me of the decision,
21 what it was and like that.

22 Q. And so he told you when he received it?

23 A. Yes.

24 Q. And then what did you do?

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2 A. Nothing. I believe Marcelle would
3 have -- I -- she should have, she does normally
4 in the past, I don't know exactly, would have
5 informed Mr. Karam of the result. And then we
6 would have informed our payroll personnel what to
7 do and how to move forward.

8 Q. And did you do that?

9 A. Yes. It was done.

10 Q. Did you do that immediately?

11 A. Again, I didn't do it. I don't do that.

12 I never do it for any of them.

13 Q. Who does it?

14 A. It would be done through, normally
15 Marcelle would handle all those once she knows of
16 the process and she would have known right then
17 and there.

18 Q. So you told her about the report from the
19 doctor?

20 A. She would have probably known right away
21 also.

22 Q. Did you have to sign anything to approve
23 his benefits?

24 A. I think -- no, I signed a letter to

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2 approve his 207-c, but that automatically
3 approves his benefits.

4 Q. What does?

5 A. The signing of the letters approving
6 207-c.

7 Q. Your letter?

8 A. Yes.

9 Q. That you signed?

10 A. Yes.

11 Q. And did you sign it as soon as you
12 learned of Dr. Denea's report?

13 A. As soon as it was given to me I signed
14 it. Our attorney drafted. He asked me if he
15 could draft the letter and I let him draft the
16 letter.

17 Q. So you didn't get the report and then the
18 attorney drafted a letter?

19 A. And I signed. I read the letter and I
20 signed it. That's correct.

21 Q. And so why wouldn't Marcelle do it? I
22 thought you said she usually does it.

23 A. She usually does what?

24 Q. Notifies the officer of the determination.

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2 A. Yeah. She sends it out in the mail.

3 Q. So, she doesn't usually draft the letter
4 for you?

5 A. No. No. She won't.

6 Q. Who usually drafts the letter for you?

7 A. Normally on the complex, most of our
8 207-cs that are done by, Attorney Goldberger will
9 draw them up for me and he puts them out there.

10 Q. What about the ones where Attorney
11 Goldberger --

12 A. Is not involved? Marcelle will draw up
13 the letter.

14 Q. Okay. This has already been marked at a
15 different deposition. I'm going to hand you
16 what's been marked as KJ 2, which for the record
17 is a copy of Dr. Denea's report. One of them.

18 MS. BOSMAN: For the record we
19 demand the other one. We haven't gotten
20 that.

21 MR. BAILEY: Is there a question?

22 Q. Have you ever seen that before?

23 A. I may have been shown it, but I've never
24 read it.

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2 Q. And that's the doctor's report for the
3 evaluation from Dr. Denea. Is that correct?

4 A. I guess it is. Yes. It says report.
5 Yup.

6 Q. And what is the date that that was sent
7 to Mr. Goldberger?

8 A. It looks like May 3rd, 2013.

9 Q. What date were Mr. Karam's 207-c benefits
10 approved?

11 A. I don't know the exact date. I have no
12 idea.

13 Q. Did you make a statement in the presence
14 of any individuals regarding Mr. Karam's
15 treatment by Dr. Ovens?

16 A. I don't know who Dr. Ovens is.

17 Q. Did you make that statement in the
18 presence of anyone?

19 MR. BAILEY: What statement?

20 Q. Any statement regarding Dr. Ovens.

21 A. No. I don't even know who Dr. Ovens is.

22 Q. Did you make a statement regarding
23 Mr. Karam receiving 207-c benefits after May 3rd,
24 2013, that indicated that you disagreed with the

1 [JACK MAHAR - By Ms. Bosman]

2 doctor?

3 A. I don't know about that. I don't recall.

4 Q. Did you disagree with the doctor?

5 A. Do I?

6 Q. Did you.

7 A. I do disagree in a way. Yes.

8 Q. And what is the basis for your
9 disagreement?

10 A. Just it's something that I, you know, I
11 just don't -- I have difficulty because maybe I
12 don't understand medical science the way other
13 people do.

14 Q. And what is it that you have difficulty
15 with?

16 A. That it's very difficult for me to -- a
17 workplace environment causes such things. That's
18 all. I'm not saying it doesn't. I'm just saying
19 I'm personally like that.

20 Q. What have you done to familiarize
21 yourself with the conditions that Dr. Denea
22 identifies in his report?

23 MR. BAILEY: Object to the form.

24 He said he didn't read it, but go ahead.

1 **[JACK MAHAR - By Ms. Bosman]**

2 THE WITNESS: Oh, I'm sorry.

3 A. I didn't read the report.

4 Q. Yes. I know you didn't read it. My
5 question is what have you done since you knew
6 about the report in order to educate yourself
7 about what you testified here you don't
8 understand?

9 A. I've done nothing.

10 Q. Do you recall receiving a grievance from
11 the union regarding the donated sick leave issue?

12 A. No. I don't. What union?

13 Q. The UPSEU.

14 A. UPSEU is not the union that -- well, at
15 that time it was not the union for us.

16 Q. Did you become aware of a grievance filed
17 by the union regarding the donation of sick leave
18 to Mr. Karam?

19 A. Yes. I was aware that a union, was
20 filed by a union that doesn't represent the
21 sheriff's office filed a grievance. Yes.

22 Q. And what was your response to that
23 grievance?

24 A. I never -- I didn't respond to it.

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2 Q. Why not?

3 A. Because it wasn't appropriate to my --
4 they don't work for me.

5 Q. Pardon me?

6 A. They don't work for me.

7 Q. Have you ever seen Exhibit KJ 4 before?

8 A. I don't know.

9 MR. BAILEY: Look at it and see.

10 A. I don't know if I read it or not. I
11 don't know if I saw it or not. I knew they had
12 filed it. But I don't know if they ever read it.
13 I just don't recall. I remember Attorney
14 Goldberger and I discussing it, but that's really
15 it.

16 Q. What was the outcome of the grievance, do
17 you know that?

18 A. No. I don't.

19 Q. Do you continue to have a policy in the
20 sheriff's department that employees of the
21 sheriff's department may not receive donations of
22 sick leave?

23 A. That's correct.

24 Q. Why didn't you want Mr. Karam to get the

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2 donated sick leave?

3 A. It isn't Mr. Karam. It's anyone and
4 everyone.

5 Q. Who else was applying for it?

6 A. There are people since I have been there,
7 it's been something I've been arguing since I
8 first learned of the process of donated sick
9 leave. That it's -- it was originally put in
10 place specifically for catastrophic illness only
11 and that's all it was supposed to be for. And
12 somehow somewhere along the line it morphed into
13 this process where anybody can get any time off
14 for any reason. And when I approached the human
15 resources officer regarding this, his answer was
16 I'd approve them for anybody that has a doctor's
17 note. And I said, well, that wasn't the intent
18 of what these were for, number one. Also is the
19 fact that they are given out inappropriately,
20 that they are -- the sheriff's office isn't
21 budgeted for it, number one. Number two is
22 employees of different pay structure can give
23 time off on an uneven scale. Employees that have
24 given it to employees who -- we have to replace

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2 at time and a half to replace and people who give
3 it aren't ever out of work. I mean, they don't
4 have to be replaced where they come from. So,
5 because of all the disparities, all the problems,
6 and I had our financial person estimate the cost
7 of where we were, we had spent roughly a million
8 dollars up until this of taxpayers' money and I
9 said, no, this has to be done. I never signed on
10 to this agreement. I never agreed to it from day
11 one. We will redo this whole process and I
12 stopped it. And I'll wait for our unions to
13 bring it up in contract negotiations at this
14 point in time. It may happen, by the way.

15 Q. Pardon?

16 A. They haven't brought it up in contract
17 negotiations. No one has asked for it back from
18 the sheriff's office, the process.

19 Q. Who else received donated sick leave at
20 the time of Mr. --

21 A. I have no idea. I don't track it. The
22 undersheriff, he tracks it all.

23 Q. You've got to let me finish the question.
24 I think you know what I'm thinking --

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2 A. Sorry.

3 Q. -- but even if you do --

4 A. Sorry.

5 Q. She can't --

6 A. Sorry.

7 Q. So then do you consider that an
8 accomplishment on your behalf?

9 MR. BAILEY: Object to the form.
10 Does he consider what an accomplishment?

11 Q. To eliminate this donated sick leave.

12 MR. BAILEY: Object to the form.
13 You know, again, A.J., this is so far --

14 MS. BOSMAN: I want you to stop,
15 John. Take it off the record.

16 MR. BAILEY: This is so far off,
17 whether he considers that an
18 accomplishment is so far off of where we
19 are. It's unbelievable.

20 MS. BOSMAN: Are you done?

21 MR. BAILEY: I'm done.

22 MR. KEACH: I'm going to take a
23 break and get a cup of tea. If you have
24 to proceed in my absence you are free to

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2 do so.

3 Q. When was the donated sick leave policy
4 put in place?

5 A. I don't know the exact date. It was
6 somewhere around there, the time when Lieutenant
7 Karam was requesting his. Somewhere around that
8 time. I don't know the exact date.

9 Q. The policy that you didn't like was put
10 into place?

11 A. Oh. No. No. That was put in 2002 or
12 -1, somewhere around in there before I took over
13 office, before I became sheriff.

14 Q. By who?

15 A. The county exec put it in place and they
16 had the unions agree to it. The unions signed on
17 board.

18 Q. And it was expressly for catastrophic
19 illness?

20 A. Oh, yes. That's what started the whole
21 mess. Absolutely. I looked into it and asked
22 why it was. It was specifically designed for a
23 man who had cancer and he was dying and they
24 wanted to help this person out. So, there was no

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2 process to do that. They allowed that to happen
3 and now it morphed into what it did, where it
4 went on to.

5 Q. Did Cliff McLean receive donated sick
6 time?

7 A. Numerous received donated sick time.

8 Q. Did Cliff McLean?

9 A. He may very well have. I don't know how
10 many received.

11 Q. Did Cliff McLean receive donated sick
12 time after you announced the change in policy
13 when Mr. Karam had asked for the donated sick
14 leave that he had received?

15 A. According to the undersheriff when I
16 asked about this he said the only sick leave
17 authorized, which I testified to a little while
18 ago, was if it was approved before it went into
19 place, the new policy, it was allowed to continue
20 until it was finished. Anything that came in
21 after the policy placement went into effect no
22 one would have gotten it.

23 Q. So that's what the undersheriff told you?

24 A. Yes.

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2 Q. So your testimony regarding that is based
3 upon what the undersheriff told you?

4 A. Yes.

5 Q. So you don't have personal knowledge
6 about that?

7 A. No.

8 Q. So, Mr. McLean, if I understand what you
9 are saying then, Mr. McLean's donations, for
10 example, were made in 2012 and then Mr. Karam's
11 donations were made also in 2012, that it was
12 because Mr. McLean had already started receiving
13 those donated sick leave benefits that he was
14 going to continue them? Is that what you mean?

15 A. No. What I said was if -- I don't know
16 the exact date so. But whatever that date was,
17 if someone had put in for sick leave benefits
18 they were -- and approved by going up through the
19 human resources and through the procedure and
20 they approved the time, they were allowed to
21 continue until they were exhausted what they were
22 given.

23 Q. Approved by human resources to receive or
24 to donate?

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2 A. Well, to donate -- it's a complex
3 process. If -- human resources determines who,
4 whether or not you get them or not.

5 Q. Well, human resources determines whether
6 or not you have enough credits to donate, don't
7 they?

8 A. It's not a question of credits to donate.
9 The problem was what human resources was doing
10 was donating time, massive amount of time that
11 cost us an exorbitant amount of money without any
12 money in my budget to do this. We wouldn't have
13 no funding to do this and it was costing hundreds
14 of thousands of dollars a year.

15 Q. Well, what about the donations that came
16 from outside the sheriff's department?

17 A. Didn't make any difference when someone
18 is out of work. We have to replace that person
19 with time and a half.

20 Q. Okay.

21 A. Well, that was -- there was no budget
22 money for any of this.

23 Q. But your donated sick leave from outside
24 the sheriff's department is not coming from your

1 **[JACK MAHAR - By Ms. Bosman]**

2 budget. Am I correct?

3 A. Yeah. But the time of the other person
4 is.

5 Q. Oh, that's true. Mr. Karam's donations,
6 his sick leave donations were approved at human
7 resources?

8 A. Well, it was never forwarded up there by
9 us so I don't know how they were approved.

10 Q. You didn't know that they were approved?

11 A. No. Because they couldn't have been.
12 They were never sent up. I don't know who sent
13 them there.

14 Q. Was Mr. Karam's job ever backfilled?

15 MR. BAILEY: Object to the form. I
16 don't know what backfilled means. Do you
17 know what backfilled means?

18 THE WITNESS: I think I know what
19 she's trying to say.

20 MR. BAILEY: Okay.

21 A. When he was out. No.

22 Q. Did you ever have a background check
23 performed on Ruth Vibert?

24 A. A background check performed under her.

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2 I don't know what you mean.

3 Q. On her.

4 A. No.

5 Q. Before she was hired.

6 A. No.

7 Q. So did you have any involvement or
8 knowledge of cleaning out of Mr. Karam's office?

9 A. No. I do -- we had his computer and
10 stuff moved and put into storage where it
11 couldn't be accessed by anyone to preserve
12 everything there.

13 Q. When?

14 A. Huh?

15 Q. When?

16 A. Right after he left.

17 Q. Within the same week?

18 A. No. No. Right after -- no. Right after
19 we knew he wasn't coming back is the way I would
20 better rephrase, you know, say that.

21 Q. Was that before or after his 207-c
22 application?

23 A. I don't know the exact time frame. I
24 really don't. Okay? But we didn't want anyone

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2 accessing or doing any of that. But we also
3 needed space from that. So, when Chief Vibert
4 was brought on board, she wanted to go in, start
5 making use of the space and cleaning up the
6 office. So, we said you could but she went in
7 under the direction with someone else in there to
8 make sure no Internal Affairs files were touched
9 or anything like that. And they were moved over
10 to, all the filings and cabinets were moved over
11 to where we put our personnel files and locked
12 inside there.

13 Q. Did you order that Mr. Karam's weapon,
14 gun, keys, et cetera, would be collected from
15 him?

16 A. I don't personally order that for
17 anybody. If someone did, maybe the undersheriff
18 may have.

19 Q. So you didn't direct --

20 A. I don't personally, no.

21 Q. -- anyone to do that?

22 A. No.

23 Q. Did you direct that Mr. Karam's computer
24 be put in storage?

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2 A. Yes. I had them taken out and put in a
3 more secure area so no one would touch anything
4 in there.

5 Q. Who?

6 A. I think Lieutenant Dunham would have
7 accomplished that.

8 Q. That's who you told to do that?

9 A. No. I told to have it done. I don't
10 know who I told to do it.

11 Q. You don't know who you told to do it?

12 A. No.

13 Q. When did you learn that Mr. Karam was not
14 returning?

15 A. I'm not sure -- when he wasn't returning?

16 Q. Yes. You said that when you learned he
17 wasn't returning you went ahead and had Ms.
18 Vibert go in.

19 A. When he wasn't there for a long period of
20 time.

21 Q. What was the --

22 A. I told you I don't remember the exact
23 date.

24 Q. So you don't know when you made a

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2 decision that he wasn't --

3 A. No.

4 Q. -- that he wasn't returning?

5 A. I don't know when I made the decision?

6 No. First of all, no one said he's not

7 returning. All we know is his 207-c has been

8 approved. That doesn't mean he's not coming.

9 It's been a long time since he was at work and we
10 didn't know when he might be coming back and I
11 know they were wanting to use the office space so
12 we moved the stuff out of his office and put it
13 to a more secure area.

14 Q. And you don't know who you directed to do
15 that?

16 A. No. But I think it was under the chief
17 at the time, Chief Vibert.

18 Q. I see.

19 A. I don't know if I told -- had the
20 undersheriff direct it. I'm not sure if I might
21 have had Marcelle call over. I'm not sure how it
22 actually got done or if I called Ruth directly.
23 I don't remember is what I'm saying but.

24 Q. Did you tell Ruth Vibert to collect the

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2 investigative files on the HIPAA investigation?

3 A. No. She wasn't to take any files like
4 that. No files. She was to bring all the filing
5 cabinets and move them over. That's all she was
6 to do. Nobody touched any files.

7 Q. Did you ask her to locate any
8 investigative files in Mr. Karam's office?

9 A. No. I did not.

10 Q. Did Ms. Vibert ever provide you with any
11 files from Mr. Karam's office?

12 A. I don't know. I really don't know that.

13 Q. Did you have any discussions with Ms.
14 Vibert about documents that were found in Mr.
15 Karam's office?

16 A. No. I don't -- all I know at the time,
17 and there's a lot of things were being requested
18 both by Samaritan Hospital and the lawsuit was
19 filed, people were requesting information. We
20 may have asked to see if anything was there
21 regarding information we were trying to supply
22 that was requested. But no one was told to go
23 over there to look for anything. No one was
24 authorized to go through any of his files. If

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2 someone may have requested it, such as a law firm
3 or someone from the county or somebody then they
4 would have been asked to get it possibly.

5 Q. Did you direct Ms. Vibert to collect Mr.
6 Karam's mail?

7 A. No. I don't believe I did. I wouldn't
8 have even thought of something like that.

9 Q. Did Ms. Vibert provide you with Mr.
10 Karam's mail?

11 A. I don't believe anyone would have given
12 me that. More than likely something like that,
13 if she had something like that, she probably
14 would have given it to Marcelle to mail it. But
15 nothing like that ever came to me.

16 Q. Did you ever direct Ms. Vibert to destroy
17 any documents?

18 A. No. I did not.

19 Q. Did you make any statements regarding my
20 client's ethnicity in the presence of Ms. Vibert?

21 A. No. I did not make any derogatory
22 statement towards your client.

23 Q. Have you ever made statements regarding
24 my client's ethnicity in front of anyone?

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2 A. No. I never made any derogatory
3 statement against your client.

4 Q. Did you ever make reference to
5 Mr. Karam's ethnicity in the presence of anyone?

6 A. No. The only thing I can think of that
7 might even be construed as something like that
8 was I was having a conversation with Marcelle and
9 someone else and it was brought up Lieutenant
10 Karam's, his hatred towards Colonel Loveridge and
11 his dislike for Chief Vibert, to which he
12 expressed many times was -- which I could not
13 understand it and I have no idea where it comes
14 from. I said, I know Jim, I like Jim. I just
15 don't understand it. I used to ask Loveridge all
16 the time why. And I said I don't know if this is
17 his upbringing, if this is part of where he went
18 to school or something happened at work here, if
19 this is -- things like that. I never said
20 anything derogatory to Jim. I never did it. I
21 considered and always respected him and liked
22 him.

23 Q. Did you ever make reference to the fact
24 that because he was Lebanese that he didn't like

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2 working for or he couldn't take direction from
3 women?

4 A. No. I never made that statement like
5 that. What I said to you was I don't understand
6 why he disliked Ruth Vibert and him so much, why
7 he had so many problems working with them. And I
8 made reference to how, whether it was something
9 that happened in school, something that happened
10 in a workplace, whether he was brought up that
11 way or whatever, however else I said it. Never
12 ever did I ever mean it to be derogatory.

13 Q. Did you ask Mr. Karam why?

14 A. I've asked him many times why he couldn't
15 get along with Colonel Loveridge, many times, and
16 I asked him to get along with Chief Vibert.

17 Q. What did he say to you when you asked
18 him?

19 A. He said he disliked them for his reasons
20 and they were valid reasons, whatever they were.
21 I had no idea.

22 Q. He never told you the reason?

23 A. No. No one's ever told me. If they did
24 I would never have even asked him. I don't know

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2 why he disliked Colonel Loveridge so much.

3 Q. Did you ask him why he had difficulty
4 with Ms. Vibert?

5 A. No. I asked him to get along with her.
6 He felt she wasn't qualified for the job. He
7 felt a bunch of other things. He would bring
8 them up. I would tell him that she's the chief,
9 that he would have to follow her. No different
10 with how he would have to follow Colonel
11 Loveridge, things like that.

12 I do know that I thought they started out
13 well, but down the road it soured. I don't know
14 what happened there and why it soured, but I know
15 they did not get along.

16 Q. Why is it that he believed she was not
17 qualified?

18 A. I can't remember the whole process.

19 Q. You can't remember what he stated to you?

20 A. I just don't remember. Not only that. I
21 mean, I'm not being derogatory towards Lieutenant
22 Karam. Like I said, I always respected him and
23 liked him. He had a lot of people he didn't get
24 along with and he had no problem letting people

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2 know that. And he would, you know, say things
3 about them and things like that. And to me not
4 liking Ruth was just another one on the list.

5 Q. So, who was it that he didn't like and
6 didn't get along with?

7 A. A lot of people.

8 Q. Who?

9 A. I don't know. People that he worked with
10 inside the facility. And there were people he
11 did like.

12 Q. Who is it he didn't like?

13 A. Colonel Loveridge vehemently disliked.
14 Lieutenant Beaudry he disliked. Other people he
15 would name that he disliked. I can't think of
16 them all off the top of my head or whatever he
17 mentioned over the years he disliked.

18 Q. So, he stated to you that he did not like
19 Mr. Loveridge?

20 A. Oh, yes.

21 Q. And he stated to you he did not like, was
22 it Ms. Beaudry, Mr.?

23 A. Lieutenant.

24 Q. Lieutenant Beaudry?

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2 A. Yes.

3 Q. Did he tell you why?

4 A. He claims that he just -- "no good."

5 Q. Did you ask him what he meant?

6 A. Well, I asked him to try to get along and
7 put past behind past and try to move the place
8 forward. Not to debate all the other stuff is
9 what I had asked him.

10 Q. I'm sorry. How do you know it was
11 something from the past?

12 A. Well, it wasn't from the future so it had
13 to happen before.

14 Q. Could it have been from the present time?

15 A. I'm sorry. I really am sorry.

16 Q. Could it have been from the present?

17 A. No. I don't believe so. I believe these
18 were things that happened in the past.

19 Q. And you believed that without asking him
20 what it was?

21 A. He would never tell you what it was. He
22 would say things about that he didn't like them.
23 I'm not the only one he told this to. He told it
24 to other people down there.

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2 Q. So, do those other people have an
3 understanding why he did not like Beaudry?

4 A. I don't know that. You'd have to ask
5 them.

6 Q. Well, have they ever expressed to you
7 they understood why Mr. Karam didn't like those
8 people, Beaudry?

9 A. No.

10 Q. Loveridge?

11 A. I don't think. No. They did not express
12 it to me.

13 Q. Well, he expressed to you that he didn't
14 think Vibert was qualified. Correct?

15 A. I think he did do that. Yes. That's
16 correct.

17 Q. And he expressed to you that Lieutenant
18 Beaudry was no good?

19 A. Something similar to those words. Yes.
20 The exact words I don't know. That's a
21 paraphrase.

22 Q. Did he complain to you that Beaudry was
23 telling the union and staff things from the
24 meetings?

1 **[JACK MAHAR - By Ms. Bosman]**

2 A. Yes. He did say that.

3 Q. And was he concerned about confidentiality
4 as a result?

5 A. I don't know. Because many people were
6 telling people, from staff from the meetings. I
7 believe he was as well telling staff stuff that
8 was going on inside the meetings.

9 Q. Which meetings?

10 A. The correctional executive staff meetings
11 or the correctional staff meetings from the
12 lieutenants.

13 Q. So, that was the meetings that Mr. Karam
14 told you he was concerned about Beaudry talking
15 about?

16 A. Yes.

17 Q. So these correctional staff meetings?

18 A. Correct.

19 Q. And you are saying other people would
20 relay information outside those meetings?

21 A. That's correct.

22 Q. Who?

23 A. I don't know who. It was a -- it would
24 just be a guess. We did not know who was doing

1 **[JACK MAHAR - By Ms. Bosman]**

2 it. It would be some of the staff members.

3 Q. Well, how do you know it was somebody
4 then?

5 A. They would -- the staff would find out
6 things that they should not find out and the only
7 people inside the room that would know would be
8 the lieutenants. That would be it. Nobody else.

9 Q. Including Mr. Beaudry?

10 A. He would be one. Correct. And other
11 people. There might be days where Mr. Beaudry
12 might not be there and information would get out
13 from over there and things like that. It would
14 be --

15 Q. Was that a concern to you?

16 A. Of course it's a concern for us.

17 Q. What did you do about it?

18 A. Asked the staff to try to stop giving
19 information out there and to not to continue to
20 do that. And asked them to have a little respect
21 for their positions and to try to respect the job
22 and what we are trying to do.

23 Q. And did that work?

24 A. No.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. Did you ever fire Mr. Loveridge?

3 A. No. I never fired him. I told him I
4 would have, I was going to, yes.

5 Q. For what reasons?

6 A. A lot of things weren't changing in the
7 place in which we were trying to do. And I
8 brought Bob into the office and we had a long
9 talk about it. I told him if he couldn't get the
10 changes and to enforce the changes that we would
11 let him go. And I said it's very important, that
12 because of the things that were going on in the
13 facility, to get the command staff, and get other
14 things moving and that was his role.

15 Q. And that's because if you get the
16 accreditation --

17 A. That was part of it. That was only a
18 miniscule part of it.

19 Q. You didn't let me finish my question.

20 A. Okay.

21 Q. Is it true that if you get the
22 accreditation you become eligible for additional
23 monies from federal and state?

24 A. No. I've never heard of that.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. Do you get any eligibility for grants?

3 A. Never heard that. Never heard of that.

4 Q. So, what's the benefit of being
5 accredited?

6 A. The benefit of being accredited? It's a
7 stamp of approval that you have policies in place
8 that are well-recognized and understand that your
9 organization follows those policies. That's the
10 stamp of approval you get. You don't get any
11 financial gain at all for it.

12 Q. Did you also threaten to fire Mr. Loveridge
13 right before he went out on retirement?

14 A. No. I knew he was going out on
15 retirement. In fact, we were fine. I was
16 talking with him and that.

17 Q. When was it that you threatened to fire
18 him?

19 A. Oh, cripe. Years ago.

20 Q. So years before he retired?

21 A. Yes. I told them all if they did not --
22 that we would move forward with all the staff if
23 they couldn't keep up to the required tasks that
24 they were to do. No one's job is give me. Just

1 **[JACK MAHAR - By Ms. Bosman]**

2 because you worked for civil service, you have an
3 obligation to do work and that was part of the
4 thing. I told them all that.

5 Q. As a group you mean?

6 A. Yes.

7 Q. Okay. I thought you were speaking to
8 Mr. Loveridge by himself.

9 A. I did speak to Mr. Loveridge by himself.
10 Yes.

11 Q. And did you also threaten to fire Ms.
12 Vibert?

13 A. No.

14 Q. You didn't tell her that you would fire
15 her?

16 A. I told -- I told anybody would be let go
17 if they didn't keep up to their standard. She
18 wasn't threatened to be fired to answer your
19 question.

20 Q. One on one you didn't --

21 A. No.

22 Q. -- have a meeting with her in private at
23 which point you told her that you would terminate
24 her?

1 **[JACK MAHAR - By Ms. Bosman]**

2 A. No. I don't recall that at all.

3 Q. Did you ever threaten to terminate
4 Mr. Karam?

5 A. Not him specifically. The whole group I
6 threatened to do that to if, if we didn't bring
7 the place up to speed and get things moving in
8 the right direction and all the pettiness would
9 end, the arguing back and forth and bickering,
10 but to get down to doing the job the way we were
11 supposed to be doing the job. That's all.

12 Q. Was Mr. Karam doing the job the way he
13 was supposed to be doing his job?

14 A. For the most part Mr. Karam does his job
15 very well. Mr. Karam's big problem and it's a
16 big morale factory was he had a very difficult
17 time getting along with others. I told you that.
18 And that was part of what I was talking about.

19 Q. Did you reflect that in his personnel
20 evaluation?

21 A. I don't do his personnel evaluations. I
22 don't do any of the personnel evaluations. They
23 are done by someone different.

24 Q. Was it reflected in his personnel

1 **[JACK MAHAR - By Ms. Bosman]**

2 evaluation by the person that did it that he
3 didn't get along with others?

4 A. Probably. I don't know. Like I said, I
5 don't know.

6 Q. Was the group meeting you had when you
7 threatened to fire everybody at the same time
8 that they were talking about unionizing?

9 A. No. That was way after that. That was
10 way way after that. Years after that. That was
11 before they wanted to unionize. They could.
12 That was nothing against me.

13 Q. Who is that took Mr. Karam's personal
14 belongings out of his office?

15 A. I have no idea.

16 Q. What is it that happened to Mr. Karam's
17 personal notebook that had mementos in it from
18 his career?

19 A. I have no idea. I told you I took
20 nothing out of his office personally. His stuff
21 was brought over. Whatever it was they brought
22 over, they put over, put it in the training room.
23 Beyond that I have no idea where anything is or
24 was. It was under the chief, was the one

1 **[JACK MAHAR - By Ms. Bosman]**

2 reorganizing that room.

3 Q. Did anyone approach you about Mr. Karam's
4 notebook or missing personal items?

5 A. Not me personally. No.

6 Q. Did anyone tell you about it?

7 A. No. This is the first I'm hearing of it.

8 Q. You didn't know --

9 A. No.

10 Q. -- that his collection of mementos is
11 missing from his office?

12 A. No. This is the first time I'm hearing
13 of that.

14 Q. Did any of the files of the investigations
15 Mr. Karam was handling end up missing, being
16 missing?

17 A. I wouldn't know if there are any missing
18 or not. To my knowledge nobody took anything, or
19 was authorized to go into any of those files or
20 folders. Did anybody take anything? I can't --
21 I wouldn't know that.

22 Q. Did anyone report to you that they were
23 missing documents or files from Mr. Karam's
24 investigative files?

1 **[JACK MAHAR - By Ms. Bosman]**

2 A. No. No one reported that to me.

3 Q. Where's Mr. Karam's mail now?

4 A. I have no idea where his mail is. I
5 never saw his mail nor anyone else's inside the
6 place. I don't touch anyone's mail.

7 MR. KEACH: A.J., can we take a
8 break for a minute?

9 MS. BOSMAN: Sure.

10 MR. KEACH: I think we've been
11 going now for almost two hours.

12 MS. BOSMAN: Sure.

13 (Recess taken at 3:15 p.m. to have
14 a conference call with Judge Treece.

15 Proceedings resumed at 3:50 p.m.)

16 Q. Mr. Mahar, did you have an e-mail address
17 at the sheriff's department when my client was
18 there?

19 A. Yes. I did.

20 Q. What was your e-mail address?

21 A. Jmahar@renco.com.

22 Q. Did you ever receive any jokes or copies
23 of jokes regarding Arabs or any ethnic jokes in
24 your e-mail?

1 **[JACK MAHAR - By Ms. Bosman]**

2 A. I don't know if I ever did. I couldn't
3 answer that. I can't control what comes in.

4 Q. Did you ever open or review any e-mails
5 that were, that made reference to or made fun of
6 individuals of different ethnic backgrounds?

7 A. I may have opened e-mails that came in
8 but I don't -- because I might not know what they
9 are until they come in.

10 Q. Right. So, have you ever done that?

11 A. I may have seen them, yes. I don't --
12 because I know people do that but they shouldn't.
13 But I know they do send them.

14 Q. And did you go back to the person that
15 sent it or sent it on to you to alert them that
16 it was improper, inappropriate or -- wait.

17 A. I'm sorry.

18 Q. -- or discipline them in any way?

19 A. Not discipline. The only one I get -- I
20 don't know of anybody inside the workplace that
21 does it. I only get one from a friend that
22 thinks everything is funny, but I told him not to
23 do it. He's got a big mailing list and I think
24 he just sends it to me.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. No. No. No. I'm talking about in the
3 workplace.

4 A. I don't know of anybody that sent them in
5 the workplace. I just don't know that.

6 Q. So you've never had to have a conversation
7 with --

8 A. I don't know that I have, no.

9 Q. Was there an issue with respect to the
10 eligibility for command and management level
11 staff to collect overtime at one time?

12 A. When I took over there was no overtime.
13 So, never -- I know they had it prior to me
14 taking over. But never since I was there.

15 Q. Did you send out a memo indicating that
16 the issue with regard to eligibility for command
17 and management level staff to collect overtime
18 had arose and that no more overtime would be
19 authorized or paid until that issue was resolved?

20 A. I don't recall anything like that. I
21 don't know.

22 Q. It's a long time ago. It would have been
23 in 2006.

24 A. I don't recall it. No.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. Did you have any discussions or
3 disagreements with my client regarding overtime?

4 A. I don't recall.

5 Q. Did you ever hear anyone in your presence
6 make reference to Mr. Karam's ethnicity?

7 A. Not that I can recall. No.

8 Q. Did you ever hear anyone in your presence
9 disparage Mr. Karam in any way?

10 A. Not that I can recall. No.

11 Q. Did anyone ask you to try and locate
12 Mr. Karam's mail?

13 A. I know nothing of mail. Seriously, I
14 don't know anything of it.

15 Q. The question was did anyone ask you if
16 you could locate Mr. Karam's mail?

17 A. I don't recall anyone ever asking me
18 that.

19 Q. And no one told you that he was missing
20 his book of mementos or his history from the
21 department?

22 A. Correct.

23 Q. And no one asked you to help find it?

24 A. I didn't know it was missing.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. Did Mr. Karam indicate to you at any time
3 he wanted to be a captain?

4 A. I don't recall it. No.

5 Q. Did you have any conversations with
6 Mr. Karam about an event that occurred where
7 someone was stopped on the side of the road and
8 they didn't want to get tickets because they
9 either knew you or were a friends of yours? Do
10 you recall that incident?

11 A. No. I don't recall speaking to Mr. Karam
12 about anything like that.

13 Q. Did Mr. Karam ever press you or indicate
14 to you that individuals within the sheriff's
15 department needed to be disciplined about any
16 matter and you had arguments or discussions about
17 that?

18 A. I don't recall. He may have. I don't --
19 there's so many conversations over the years. I
20 don't recall. Maybe.

21 Q. Did you complain to him because the
22 accreditation process had not been completed?

23 A. I didn't complain to him specifically, I
24 don't think but I think I complained to everybody

1 **[JACK MAHAR - By Ms. Bosman]**

2 at once that it was frustrating we didn't seem to
3 be moving forward on that.

4 Q. Have you ever applied for or received
5 207-c benefits?

6 A. No. I have not.

7 Q. Have you ever applied for or received
8 Workers' Compensation benefits?

9 A. No. I have not.

10 Q. Did you have a meeting with Mr. Loveridge
11 where he indicated he didn't know where Mr. Karam
12 was?

13 A. I don't know.

14 Q. Did you approve Mr. Karam to go to Warren
15 County for part of an investigation?

16 A. I may have. I don't know.

17 Q. That would have been in 2007?

18 A. Maybe.

19 Q. Are the administrative meetings attended
20 by you or is that just captains and lieutenants?

21 A. The undersheriff handles them now mainly.

22 Q. Did you have any conversations with Kathy
23 Jimino about my client?

24 A. No. Never to my knowledge. I don't

1 **[JACK MAHAR - By Ms. Bosman]**

2 recall.

3 Q. Did you have any discussions with anyone
4 from her office about my client?

5 A. I don't recall.

6 Q. Did anyone contact you from human
7 resources regarding my client?

8 A. I don't know. I don't remember.

9 Q. Were you aware that Mr. Russo or someone
10 in the sheriff's department identified him as
11 part of the rat squad?

12 MR. BAILEY: Identified who?

13 MS. BOSMAN: Mr. Karam.

14 MR. BAILEY: Okay.

15 A. I don't even know what the rat squad is.

16 Q. I don't either. But we are going to find
17 out.

18 (Plaintiffs' Exhibit No. JM 1
19 marked this date for identification.)

20 THE WITNESS: I don't know anything
21 about that. Nothing at all. I don't get
22 involved with time slips. Never see
23 them.

24 MR. BAILEY: All right. You'll be

1 **[JACK MAHAR - By Ms. Bosman]**

2 asked some questions. Have you looked at
3 it now? Take a careful look.

4 THE WITNESS: All right. I see it.

5 MR. BAILEY: All right.

6 Q. What is that a copy of? Do you recognize
7 it?

8 A. It looks like a time slip that they used
9 to fill out at the sheriff's office.

10 Q. And what does that time slip JM 1
11 reflect?

12 A. I'm sorry? What?

13 Q. What does that time slip reflect, Exhibit
14 JM 1?

15 A. It reflects Lieutenant Karam in a pretty
16 disparaging way.

17 Q. Do you recognize the handwriting?

18 A. Actually, I don't. No. I don't.

19 Q. What disparaging way does it reference
20 Mr. Karam?

21 A. Apparently it has rat squad. I'm
22 assuming in this case top secret stuff, probably
23 Internal Affairs is my guess.

24 Q. Well, where is rat squad written in,

1 **[JACK MAHAR - By Ms. Bosman]**

2 under what blank?

3 A. Under his department.

4 Q. Were you aware that a video was sent to
5 Mr. Karam entitled, "What the Taliban do when
6 they aren't killing people"?

7 A. No. I am not aware of that.

8 Q. Has Mr. Russo, the undersheriff, ever
9 done things of that nature to your knowledge?

10 A. Not that I know of. I don't think he
11 has. I don't know.

12 Q. How about Captain Smith, has he ever done
13 things like that to your knowledge?

14 A. Not to my knowledge. No.

15 Q. Has anyone in the department done things
16 like that to your knowledge?

17 A. Not to my knowledge.

18 Q. Did anybody ever report those kinds of
19 things?

20 A. Nobodies ever reported anything to me
21 like that.

22 Q. Have you received reports from anyone
23 complaining about the conduct of people in the
24 sheriff's department?

1 **[JACK MAHAR - By Ms. Bosman]**

2 MR. BAILEY: Object to the form.

3 A. In what -- I don't know what you mean.
4 What capacity?

5 Q. In any capacity.

6 MR. BAILEY: Again, object to the
7 form.

8 A. Ask me again.

9 Q. Sure. Have you received complaints from
10 anyone about the conduct of individuals of rank,
11 I'm talking about lieutenants, captains,
12 sergeants, not talking about the rank and file,
13 about their conduct with respect to those kinds
14 of things, making inappropriate remarks, making
15 harassing statements, sending harassing e-mails,
16 videos, anything of that nature?

17 A. No. I don't --

18 MR. BAILEY: Object to the form.

19 Go ahead and answer.

20 A. I don't recall of any.

21 Q. Well, you do get -- you have gotten
22 complaints of sexual harassment. Right?

23 A. Yes. I have.

24 Q. But you are saying you haven't gotten any

1 **[JACK MAHAR - By Ms. Bosman]**

2 complaints of discrimination on the basis of race
3 or ethnicity?

4 A. No. None that I can recall.

5 Q. Is there a process by which you would
6 manage those kinds of complaints in the sheriff's
7 department?

8 A. If they come in?

9 Q. Yeah.

10 A. Sure. There would be.

11 Q. What is the process?

12 A. If someone filed a complaint we ask them
13 to put it in writing, of course. Any complaint
14 would be asked to be put into writing. If they
15 refused to put it in writing then I would ask one
16 of the commanders, depending on where it is, what
17 side of the house it's on and who was making the
18 complaint and things like that, to look into it
19 to find out if there's any veracity to it and
20 based on that go from there. But if it's a
21 formal written complaint, then it would be
22 assigned, depending upon what got said, how it
23 got said, either to a -- well, one of the
24 commanders to investigate or the chief to

1 **[JACK MAHAR - By Ms. Bosman]**

2 investigate depending on what the extent of the
3 complaint is and is it something relatively small
4 or minor or a very large systemic problem, it
5 would all depend.

6 Q. Is there a method by which records are
7 kept regarding such complaints in the way that
8 the sheriff department addresses them?

9 A. Yes. There should be.

10 Q. And what is that process?

11 A. When we had Internal Affairs, complaints
12 should have been kept there and if it was done
13 only by the chief he should have his own files.

14 Q. Are those records and reports and
15 investigations required to be reported out to
16 human resources or the county anywhere in
17 personnel?

18 A. No. They are not. Oh, wait, if there's
19 a complaint like that? If there was one, yes.
20 We report all sexual harassment complaints to the
21 county. Other complaints, I haven't heard any,
22 but they would report it to human resources if we
23 got them, yes.

24 Q. Who at human resources?

1 **[JACK MAHAR - By Ms. Bosman]**

2 A. It would go over to the director of human
3 resources and from there it would go wherever
4 they assign things to.

5 Q. Who is the current director of human
6 resources?

7 A. Mr. Tom Hendry.

8 Q. And do you know how long he's been the
9 director of human resources?

10 A. No. I don't.

11 Q. Was he the director of human resources
12 when you became sheriff?

13 A. He may have been.

14 Q. Long time he's been?

15 A. He's been there awhile. Yes.

16 (Plaintiffs' Exhibit No. JM 2
17 marked this date for identification.)

18 MR. BAILEY: Okay. All right.

19 Q. Have you had a chance to look at Exhibit
20 JM 2?

21 A. This one here? Yeah. I looked at it
22 quickly here. Yes.

23 Q. Now, does that appear to be the kind of
24 e-mail correspondence that would normally occur

1 [JACK MAHAR - By Ms. Bosman]

2 between Mr. Russo and other people in the
3 department?

4 A. It's definitely not business. I'll tell
5 you that.

6 Q. Has Mr. Russo ever said anything to you
7 about my client?

8 A. No. He has not. What do you mean said
9 anything to you? I apologize.

10 Q. I'm sorry. Anything about his ethnicity
11 or anything critical of him, disparaging of him
12 or anything --

13 A. Not that I recall.

14 Q. Did he ever say anything that was
15 complimentary, praising him?

16 A. I would assume he has but I don't know.
17 I don't listen to all their conversations when
18 they are there. Publicly I don't know. I don't
19 recall.

20 MR. BAILEY: I think you mis- -- I
21 think you were asked whether Undersheriff
22 Russo has said to you anything complimen-
23 tary. I think that was the question.

24 A. Is that the question?

1 **[JACK MAHAR - By Ms. Bosman]**

2 MR. BAILEY: I thought that was the
3 question.

4 Q. It is now. Mr. Bailey just framed it for
5 you.

6 MR. BAILEY: Well, no, let's read
7 your question. That's what I thought it
8 was.

9 MS. BOSMAN: That's fine. That's
10 fine. Go ahead.

11 A. I'm sorry. I'm not being difficult.

12 Q. I know you're not.

13 A. Just clarify the question for me.

14 Q. Sure. What I was trying to understand is
15 if Mr. Russo had ever expressed an opinion about
16 or criticized or disparaged Mr. Karam?

17 A. It's always been my impression that
18 Undersheriff Russo liked Jim Karam and was
19 friends with him.

20 Q. And do you feel that way too?

21 A. Oh, I respected Jim. I love -- I thought
22 he was great. I always got along great with him.
23 I always thought he was doing a wonderful job.

24 Q. So, when he went out and he was without

1 **[JACK MAHAR - By Ms. Bosman]**

2 income, he had no pay, and you wouldn't let him
3 have the sick time and the 207-c application was
4 pending for almost a year, did you think that you
5 were hurting or harming my client?

6 A. It was nothing against your client. It
7 was a business decision that I make for not only
8 him but everyone else there.

9 Q. Well, who was the other individual that
10 was receiving donated sick time at the time you
11 changed the policy?

12 A. I don't know that. To answer your
13 question I don't know that.

14 MS. BOSMAN: And we haven't gotten
15 the records on the sick leave time yet.
16 You said you requested them.

17 Q. Do you know who Cliff McLean is?

18 A. Yes. I do.

19 Q. Isn't it a fact that Mr. Karam reported
20 to you in a report that Mr. McLean had made
21 statements about black people and should have
22 been disciplined?

23 A. I don't -- I don't recall. I just don't
24 recall it. And whether he may have been, it may

1 **[JACK MAHAR - By Ms. Bosman]**

2 have been discussed I don't know.

3 Q. And isn't it a fact you declined to
4 impose discipline on Mr. McLean even though he
5 had made statements about black people?

6 A. I don't know that. I can't recall the
7 answer to that. I don't know.

8 Q. Do you recall a workplace violence
9 complaint filed by Thomas --

10 MS. BOSMAN: Is that Thomas?

11 MR. KARAM: Yes.

12 MS. BOSMAN: I can't read your
13 writing.

14 Q. -- B-i-e-t-t-e?

15 A. Yes. I do.

16 Q. Biette?

17 A. Yes.

18 Q. And what was that about?

19 A. Apparently he threatened the -- his boss
20 would have been Cliff McLean.

21 Q. And so then what happened?

22 A. Charges were filed. He was brought up on
23 charges and he resigned.

24 Q. Who?

1 **[JACK MAHAR - By Ms. Bosman]**

2 A. Mr. Biette resigned.

3 Q. Because why?

4 A. We were investigating him for, for a
5 threat he made against his boss, the supervisor.

6 Q. And what were the alleged threats?

7 A. I don't recall off the top of my head.
8 I'd have to review everything but he threatened
9 to harm him.

10 Q. Well, hadn't Mr. Biette made the
11 complaint first before Mr. McLean did?

12 A. I'd don't -- I'd have to read the whole
13 thing. I don't recall how everything went down.
14 I really don't. But I do know when the matter
15 was being investigated, Mr. Biette resigned.

16 Q. Who did the investigation?

17 A. At that time? I don't recall. I don't
18 know if Lieutenant Karam had done it. He may
19 have done it. I'm not sure. I just don't
20 recall.

21 Q. So, what was the complaint that
22 Mr. Biette made?

23 A. I don't recall. I know Mr. -- he didn't
24 get along with his -- they didn't get along. I

1 **[JACK MAHAR - By Ms. Bosman]**

2 know that. And he was claiming I think that he
3 was pushing him too hard or something like that,
4 working him, something according to that, but I
5 don't remember the full facts of it all.

6 Q. Okay. Do you know what video was
7 attached to Exhibit JM 2?

8 A. No. I don't.

9 Q. I'm going to play it for you now. Not
10 because it's pleasant but because it is what it
11 is.

12 MS. BOSMAN: I can't mark it. It's
13 called MOV_7833. MOV 7783. John, come
14 on. Let the record reflect counsel is
15 whispering to his client.

16 MR. BAILEY: I'm talking to my
17 client. As far as I know I'm still
18 permitted to that.

19 MS. BOSMAN: About the exhibit.
20 About the exhibit.

21 MR. BAILEY: How do you know? Are
22 you reading my lips?

23 MS. BOSMAN: Because I can hear
24 you.

1 [JACK MAHAR - By Ms. Bosman]

2 MR. BAILEY: Yeah. What did I say?

3 MS. BOSMAN: I'm not going to tell
4 you.

5 MR. BAILEY: Yeah.

6 MR. KEACH: Oh, come on, man.
7 Let's get this done. I mean, this is
8 like, this is agonizing.

9 MS. BOSMAN: I'm sorry. I got the
10 wrong one.

11 (Whereupon, a discussion was held
12 off the record.)

13 Q. Would you agree with me, sharing an
14 e-mail such as JM 2 or an attached movie or movie
15 clip of what appears to be someone in Arab dress
16 having sex with a donkey would be inappropriate?

17 A. In what address? I didn't hear you.

18 Q. In an Arab dress.

19 A. Oh. I don't know what context it was
20 sent. I have no idea what the undersheriff was
21 thinking of at the time or whatever, who he spoke
22 to about what, I don't know that.

23 MR. BAILEY: Could I have that so I
24 can get copies of it, A.J.?

1 [JACK MAHAR - By Ms. Bosman]

2 MS. BOSMAN: This? You want it all
3 now?

4 MR. BAILEY: Well.

5 MS. BOSMAN: I have a couple over
6 here.

7 MR. BAILEY: Yes. As soon as you
8 are done with them, then I'll have
9 somebody come in and make copies.

10 MS. BOSMAN: So we needed to put
11 that on the record because?

12 MR. BAILEY: Put what on the
13 record?

14 MS. BOSMAN: Never mind.

15 Q. All right. Mr. Mahar, since the time
16 that Mr. Karam's 207-c was approved, which would
17 have been -- you don't know when it was. Right?

18 A. The exact date I don't know. I don't
19 know the exact date, but I know approximately.

20 Q. What is your approximate?

21 A. Several months ago. I don't know the --

22 Q. From today? Several months ago from
23 today?

24 A. I really don't know the date.

1 **[JACK MAHAR - By Ms. Bosman]**

2 MR. KEACH: Can I? I need to just
3 take a short break, if I can, please.

4 Short break, A.J.?

5 MS. BOSMAN: Sure.

6 (Recess taken at 4:15 p.m.;
7 proceedings resumed at 4:30 p.m.)

8 (Plaintiffs' Exhibit No. JM 3
9 marked this date for identification.)

10 Q. I'm handing you an exhibit marked now as
11 JM 3. Do you recognize those documents, sheriff?

12 A. This is a time sheet from the sheriff's
13 office. I don't -- looks like another time sheet
14 from the sheriff's office. I don't know what
15 this is here.

16 MR. BAILEY: You recognize two of
17 these as time sheets?

18 A. Marcelle must fill this out. Must be
19 something she fills out. It looks like a
20 personnel change. I don't know what it is, but
21 whatever it is she fills them out.

22 Q. Do you see the time sheets that you
23 recognize that are from the sheriff's department
24 there?

1 [JACK MAHAR - By Ms. Bosman]

2 A. Okay.

3 Q. And that's for an individual. Correct?

4 A. Yes. It is.

5 Q. Do you see the reference to the 207-c
6 under the individual's name in the left column?

7 A. I don't. Where? Hang on. Let me take a
8 look here for a minute. I don't even read these.

9 MR. BAILEY: Where, A.J.? Point to
10 it so we can see it.

11 MS. BOSMAN: Sure.

12 A. I see. There it is right there. Looks
13 like on 5/10 and goes down to the next day, 5/11.
14 I can't --

15 MR. BAILEY: What would that say?

16 A. I can't read it.

17 MR. BAILEY: The copy is bad.

18 A. Okay. I get what you are saying.

19 Q. So, if an employee has a 207-c status
20 they indicate that on their time sheet. Is that
21 correct?

22 A. I don't know. Apparently. I don't
23 fill -- I've never used one. I don't ever look
24 at them but apparently they do.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. And would you agree with me that those
3 time sheets are for a two-week payroll period?

4 A. Yes. There's a two-week cycle with us.
5 Yes.

6 Q. Does it indicate the date on those two
7 time sheets?

8 A. 5/11/12. 4/28, it looks like to 5/11/12
9 and 5/12 to 5/25/12 it looks like. It's hard to
10 read but that's what it looks like.

11 Q. 2012?

12 A. Yes.

13 Q. And then the third page, the first page
14 you looked at that you don't recognize?

15 A. Right.

16 Q. Which has a heading at the top of it.
17 Correct?

18 A. Yes.

19 Q. And that indicates it's a personnel form?

20 A. Correct.

21 Q. And that goes to the personnel
22 department. Correct?

23 A. Correct.

24 Q. Can you read for me the date that the

1 **[JACK MAHAR - By Ms. Bosman]**

2 207-c approval was made?

3 A. 5/4/12. Effective date it says there.

4 Is that the one you mean?

5 Q. Yes.

6 A. Yes. Okay.

7 Q. Here it is here. What was the date it
8 was approved?

9 A. Oh, it shows here 5/4/12.

10 Q. No. The date that the form, the first
11 page of the exhibit was signed and the personnel
12 change was implementing granting 207-c leave to
13 that individual as of May 4th of 2012?

14 A. Civil service signed it. They signed
15 this one here KJB, whoever that is. Is that the
16 one you are saying down here in the corner?

17 Q. What is the date?

18 A. 10/30/13.

19 Q. So, on October 30th, 2013, personnel was
20 informed that the 207-c leave was approved for
21 that individual, Mr. Brown?

22 A. I don't know what that form means. I
23 don't know. I have no idea.

24 Q. Is there any way that a 207-c application

1 **[JACK MAHAR - By Ms. Bosman]**

2 can be approved the same day or the next day of
3 the injury?

4 A. Yes. It can.

5 Q. Who can do that?

6 A. The sheriff or the undersheriff.

7 Q. And is there a document that's signed
8 approving that?

9 A. Here? This one?

10 Q. No. When you approve it like the same
11 day or the next day that the injury occurs.

12 A. There should be something to sign.

13 Q. There's a document signed immediately in
14 that regard?

15 A. I don't know how it works. I don't know
16 if they are sent a letter or if there's a
17 document we use.

18 MS. BOSMAN: We'd request any
19 documentation indicating that that
20 individual, Mr. Brown, received 207-c
21 approval as of --

22 THE WITNESS: If there is, I'll
23 look.

24 MS. BOSMAN: -- on that date, May

1 **[JACK MAHAR - By Ms. Bosman]**

2 5th, 2012, or May 4th.

3 MR. BAILEY: Put it in writing, but
4 all right. So you want a letter or what?

5 MS. BOSMAN: Some indication that
6 it was approved before 2013.

7 MR. BAILEY: All right.

8
9 *COUNSEL REQUESTS INFORMATION TO BE SUPPLIED*

10
11 (Plaintiffs' Exhibit JM No. 4
12 marked this date for identification.)

13 Q. Do you recognize Exhibit JM 4?

14 A. Yes. I've seen this.

15 Q. And is that the policy you referred to
16 earlier that was adopted setting forth the
17 donated leave, donated sick time policy?

18 A. Yes. It is.

19 Q. And that's the one that was adopted by
20 Ms. Jimino?

21 A. Correct.

22 Q. And can you read the day that it was
23 adopted?

24 A. 3/11/03.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. Was there a policy that was adopted after
3 that date?

4 A. There might have been a different one for
5 the sheriff's office. I don't know.

6 Q. By Ms. Jimino?

7 A. No. It would have been signed by the
8 sheriff at that time. There might be a different
9 document floating around there.

10 Q. Did you ever sign one?

11 A. No. Never.

12 Q. And you never issued a written policy
13 regarding --

14 A. No.

15 Q. -- donated sick leave?

16 A. No.

17 Q. And I believe earlier you testified that
18 that policy was expressly for individuals who
19 were terminally ill?

20 A. That was the intent when they established
21 this policy. It was for a terminally ill person
22 and it was supposed to be for catastrophic
23 illness and I debated this with Bryan Goldberger
24 for a long time. Can we discuss this?

1 **[JACK MAHAR - By Ms. Bosman]**

2 MR. BAILEY: Not your -- you are
3 free to indicate -- strike that. Let's
4 get a question on the table. But, again,
5 I don't want you having discussions about
6 what you talked to Bryan Goldberger
7 about.

8 THE WITNESS: Okay.

9 MR. BAILEY: Could we get a good
10 question on the table.

11 Q. Did you have disagreements with county
12 personnel regarding that policy?

13 A. Disagreements with them?

14 Q. Yes.

15 A. Can you clarify what you mean by a
16 disagreement?

17 Q. They held one opinion, you held another
18 opinion --

19 A. Yes.

20 Q. -- that was contrary to their opinion?

21 A. Yes.

22 Q. And that was based upon your
23 understanding of the original intent of the
24 policy?

1 **[JACK MAHAR - By Ms. Bosman]**

2 A. Part of it, yes.

3 Q. And where did you learn the original
4 intent of the policy?

5 A. From my attorney.

6 MR. BAILEY: All right. Okay.

7 Q. Okay. So, even though you weren't there
8 when that was adopted in 2003 --

9 A. That's correct. I wasn't there.

10 Q. -- you had discussions about the intent
11 of that policy at some later date. Correct?

12 A. Yes.

13 Q. And do you know when that was?

14 A. Many times. Many, many times over the
15 course of from then until up until they stopped
16 it.

17 Q. Did you ever state in sum or substance to
18 my client that you didn't want Mr. Rogers to be
19 on 207-c?

20 A. What do you mean?

21 Q. Did you ever state to my client words in
22 sum or substance stating that you didn't want
23 Mr. Rogers going out on 207-c?

24 A. I don't know. I don't want anybody going

1 **[JACK MAHAR - By Ms. Bosman]**

2 out on 207-c so I don't know what you mean.

3 Q. Did you state that prior to making a
4 decision to putting him out on administrative
5 leave?

6 A. No. I said that is a potential that
7 could happen. I didn't state that he was going
8 to do something like that amongst other things.

9 Q. Why did you think it was a potential that
10 that could happen?

11 A. Looking at his history over the years and
12 how many 207-cs he was out on and the last time
13 he was out on one for extensive periods of time.
14 I said that's a potential. But that's one. But
15 there's many other reasons besides that. So you
16 are only asking for a minute part of the picture.

17 Q. Well, he wasn't out for those seven, ten
18 years he was out?

19 A. He was out on 207-c prior to him getting
20 in an accident. He was on the 207-c when he got
21 in a car accident that put them out for years but
22 he was on 207-c prior to that.

23 Q. So, at the time that he had the non-work
24 related injury he was out for a work-related

1 **[JACK MAHAR - By Ms. Bosman]**

2 injury?

3 A. Correct.

4 Q. I see. And did that work-related injury
5 cease to be at some time during that absence
6 that --

7 A. It had to be or he wouldn't have been
8 able to come back.

9 Q. Pardon?

10 A. He would have had to or wouldn't have
11 been able to come back.

12 Q. I see. Did you have any conversations
13 with Ms. Vibert about her working relationship
14 with Mr. Karam?

15 A. I don't -- I may have very well have. I
16 don't recall. I may have.

17 Q. Did you tell Ms. Vibert that Mr. Karam
18 reported directly to you?

19 A. No. I told Ms. Vibert that he reported
20 directly to me when it came to matters of
21 Internal Affairs that were outside of her --
22 where we were, that were more covert in
23 operations. He did not have to report that
24 activity to her, what he was doing or come or

1 **[JACK MAHAR - By Ms. Bosman]**

2 assign to her on that, but he should let her know
3 he's investigating stuff.

4 Q. Did you hear Mr. Hal Smith at any time
5 make any disparaging remarks regarding my client?

6 A. No. I didn't.

7 Q. Was Hal Smith someone my client got along
8 with in your opinion?

9 A. I thought they were -- my understanding
10 was they were super close friends.

11 Q. Who would have the authority to direct
12 Mr. Karam to surrender his weapon?

13 A. The undersheriff or the captain could do
14 that.

15 Q. Or you?

16 A. Sure.

17 Q. But you didn't direct anybody to do that?

18 A. I don't. They normally handle those
19 things.

20 Q. Did you have any discussions with
21 Mr. Russo about Mr. Karam having his weapon?

22 A. I don't recall. I don't recall. Because
23 I don't recall actually him even surrendering his
24 weapon and stuff. If you are out on extended

1 **[JACK MAHAR - By Ms. Bosman]**

2 time we would probably have you do that, yes.

3 Q. And at what point do they make that
4 decision and based upon what?

5 A. It all depends on circumstance. I guess
6 each circumstance would be different. You'd have
7 to evaluate each circumstance.

8 Q. Have there been officers that have been
9 out on stress leave that have not been required
10 to surrender their weapon, their keys or their
11 badge?

12 A. I have no idea.

13 Q. Did you have regular e-mail communication
14 with Mr. Karam?

15 A. What kind of e-mail? Anybody would have
16 regular contact. The ability for it or actual --
17 sometimes he would e-mail me, yes, if that's what
18 you are asking? I'm not sure of the question.

19 Q. Did you have any e-mail communication
20 with Mr. Karam about his workload?

21 A. I don't recall. I don't know. Maybe
22 yes. Maybe no. I don't know.

23 Q. Did you put a new policy or standard in
24 place regarding Internal Affairs investigations?

1 **[JACK MAHAR - By Ms. Bosman]**

2 A. I know we were working on a policy. I
3 don't know if it ever went in place or not to be
4 perfectly honest. I can't recall.

5 Q. Did you have Mr. Karam working on
6 accreditation policies or rules or regulations
7 for the sheriff's department?

8 A. I don't recall specifically telling him
9 to do it by himself but I do recall we wanted all
10 the commanders to be working on policies.

11 Q. Did you make a request to him that he
12 remove a provision in the rules and regulations
13 regarding affiliation or association of persons
14 of ill repute or known criminal background?

15 A. Actually, yes, because I was advised by
16 the, our attorney that that has to be negotiated.
17 I could not put that in there and it was to be
18 taken out.

19 Q. Out of?

20 A. Out of the policy. He told me I could
21 not put that.

22 Q. Out of a policy?

23 A. That's correct. I could not arbitrarily
24 put that in. The association would have been a

1 **[JACK MAHAR - By Ms. Bosman]**

2 negotiable item. So he told me and I did not put
3 it in and it was never negotiated.

4 Q. Did you have a personal reason at the
5 time?

6 A. No.

7 Q. Because --

8 A. No. The attorney told me to take it out.

9 Q. Did you have any affiliation at the time
10 with any individuals who had a criminal history?

11 A. Did I?

12 MR. BAILEY: Did he have?

13 MS. BOSMAN: Yes.

14 A. I don't recall any.

15 MR. BAILEY: By the way, I do
16 object to the form.

17 Q. Wasn't the rules and regulations that
18 Mr. Karam was working on based upon the already
19 approved accreditation -- accredited rather rules
20 and regulations?

21 A. Please restate that.

22 Q. Yes. When you said you had to take that
23 out about associating with people that are known
24 criminals, you said that that was the result of

1 **[JACK MAHAR - By Ms. Bosman]**

2 the lawyer telling you --

3 A. That's correct.

4 Q. -- that it had to be negotiated?

5 A. That's correct.

6 Q. But wasn't that the approved accredited
7 rules and regulations that had to be adopted in
8 order for the sheriff's department to be
9 accredited?

10 A. I don't know. I don't know what the
11 standards are in corrections. That's what the
12 correctional staff was working on.

13 Q. Did you have regular meetings that were
14 attended by Mr. Karam during the time that he was
15 the lieutenant in charge of Internal Affairs?

16 MR. BAILEY: Object to the form.

17 Go ahead.

18 A. Yes.

19 Q. How frequently did you meet with him?

20 A. You said did I have regular meetings that
21 were attended by Mr. Karam?

22 Q. Yes.

23 A. He attended all the correctional staff
24 meetings. So they were had sometimes every week,

1 **[JACK MAHAR - By Ms. Bosman]**

2 sometimes we'd move them every other week.

3 Q. During those meetings did you ever
4 observe any distress by Mr. Karam, any physical
5 distress?

6 MR. BAILEY: Object to the form.

7 Go ahead.

8 A. None that I can think of. No.

9 Q. Did you observe any distress by virtue of
10 what he was saying or any kind of arguments or
11 was he yelling, any kind of behavior like that?

12 MR. BAILEY: Object to the form.

13 Go ahead.

14 A. I don't think so.

15 Q. Did you instruct Mr. Smith or Ms. Vibert
16 to issue Mr. Karam a counseling memorandum about
17 abuse of use, abuse of sick time?

18 A. I never instructed anyone to do that.
19 Chief Vibert is the one who brought it to the
20 attention and said that she was going through all
21 the policies and -- or the sick leave usage and
22 noticed that Lieutenant Karam had excessive sick
23 leave or something. I don't know what it is.
24 And it had come under our policy procedure for

1 **[JACK MAHAR - By Ms. Bosman]**

2 that. I said well, follow our policy and
3 procedure. That's what you do. I never
4 instructed her to single out any individual if
5 that's what your question is.

6 Q. So, the sick leave policy set forth the
7 basis upon which a determination is made that an
8 employee has overused or abused sick time?

9 A. Yeah. There was a policy in place that
10 was similar to that. Yes.

11 Q. And does that procedure then require
12 notice to the employee and an opportunity to be
13 heard?

14 A. Yes. It would do that, yes.

15 Q. Did you know Mr. Karam to ever have
16 abused sick leave or sick time during the time
17 that you worked with him?

18 A. I don't know what his sick leave record
19 was. I have no idea. I never tracked it. I
20 don't know what his sick leave record is.

21 Q. Did you ever look for him and somebody
22 tell you, well, he was out sick prior to his
23 stress leave in August of 2012?

24 A. I don't recall. No.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. Why would there be a sick leave use,
3 abuse counseling memo in Mr. Karam's personnel
4 file?

5 A. I don't know. Chief Vibert must have
6 issued that. I have no idea.

7 Q. Did you ever have to take sick time while
8 you were the sheriff?

9 A. Yes. I did.

10 Q. And do you have to follow the same
11 policies and procedures like Mr. Karam would or
12 are you covered under a separate contract?

13 A. I don't have a contract.

14 Q. Okay. So your policies and procedures
15 would be the same as Mr. Karam's. Is that
16 correct?

17 A. No.

18 MR. BAILEY: Object to the form.

19 A. No. They are not.

20 Q. How are they different?

21 A. I am not a sworn employee of the office.
22 I'm an elected official. That comes under a
23 different procedure.

24 Q. So what is the different procedure?

1 [JACK MAHAR - By Ms. Bosman]

2 A. My time?

3 Q. Yes.

4 A. My time is if I'm there or I'm not there.

5 Q. So you don't get like a set amount of
6 sick days?

7 A. I have no benefits from the county. I
8 don't get sick leave. I don't get anything. I
9 don't get retirement. Nothing. I get my salary.
10 Nothing else.

11 Q. So, if you don't get sick leave how do
12 you take sick time?

13 A. I just don't go to work.

14 Q. I see. Is there a policy at the
15 sheriff's department that required employees who
16 were taking medication to report that to their
17 supervisor?

18 A. No. I don't believe there was. I was
19 speaking with our attorney to incorporate that in
20 because I felt that that was something important
21 that we should have negotiated and get that
22 policy in place. But my understanding is the
23 term and condition of employment we'd have to put
24 them on notice.

1 [JACK MAHAR - By Ms. Bosman]

2 Q. And so that was a concern of yours in the
3 past?

4 A. Well, yes. We were trying -- I wanted
5 that to be brought up and to be put into place.
6 I wanted a policy on that. However, we never
7 really got it because he -- my understanding --

8 MR. BAILEY: That's all right. You
9 know, go ahead and answer the question.

10 I know what you are going to say. Go
11 ahead and say it. But I'm not waiving
12 attorney/client privilege because --

13 MS. BOSMAN: That's fine.

14 THE WITNESS: Okay.

15 A. That it has to be negotiated with the
16 union to put that policy in place.

17 Q. And what was your concern based upon?
18 What experience --

19 A. Just the training, when we went to --
20 people were saying that we should have, whether
21 it be illegal drugs or illicit drugs, no matter
22 what everyone should report any medications they
23 take.

24 Q. Did you have information that Ms. Vibert

1 **[JACK MAHAR - By Ms. Bosman]**

2 was on medication?

3 A. No. I didn't know she was on medication.

4 Q. Did anyone tell you that she was on
5 medication?

6 A. I don't know anything about her being on
7 medication.

8 Q. Do you have information regarding
9 Undersheriff Russo's assist to Mr. Piche to
10 complete a C form? Do you know what a C form is?

11 A. It's for a weapon, for him to purchase a
12 weapon.

13 Q. Are you familiar with Mr. Russo's
14 assistance of him regarding that C form?

15 A. I know there was something. I don't know
16 the full story but I -- partially the undersheriff
17 told me he took care of it. There was a mistake
18 or something made and he said he resolved the
19 problem by the use of the C form. I don't know
20 the whole story on it. You'd have to ask the
21 undersheriff.

22 Q. Did Mr. Karam inform you with regard to
23 Mr. Piche's weapon being possessed illegally and
24 then legitimized by a C form?

1 **[JACK MAHAR - By Ms. Bosman]**

2 A. I don't recall. He may have. I don't
3 recall because I remember speaking to the
4 undersheriff about it.

5 Q. And that's when the undersheriff told you
6 he took care of it?

7 A. He took -- he resolved the problem. Yes.

8 Q. Did he tell you how he resolved the
9 problem?

10 A. He said with the C form.

11 Q. So, a C form is a form that you get a gun
12 permit with. Is that right?

13 A. No. You can purchase your gun on the
14 badge and you have to fill out a C form that
15 you've done that.

16 Q. After you purchased the weapon?

17 A. Yes. You can do it afterwards. Yes.

18 Q. And you can do it before?

19 A. You would have to do it -- if you went,
20 had a pistol permit, put it on your pistol
21 permit, you would have to produce that C form.

22 Q. If you use your badge to purchase a
23 weapon, do you -- wait.

24 A. Okay. I'm sorry.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. If you use your badge to purchase a
3 weapon, do you have to fill out a form at the
4 time that you purchase the weapon?

5 A. I believe you are supposed fill out that
6 C -- no, it depends on how the weapon was
7 purchased I would guess. If it was a private
8 sale or a sale from a dealer it would be
9 different.

10 Q. How would it be different?

11 A. Because a dealer wouldn't sell you
12 without a C form and you could buy a gun from
13 somebody else without filling out a C form and
14 you have to fill it out afterwards. The average
15 person wouldn't have a C form.

16 Q. Right. So you'd have to have a pistol
17 permit?

18 A. Well, no, you can purchase it on your
19 badge and as soon as you can you'd have to fill
20 out the C form, to fill it out to legitimate the
21 purchase.

22 Q. But if you didn't purchase it using your
23 badge it wouldn't be legitimate on the C form.
24 Right?

1 **[JACK MAHAR - By Ms. Bosman]**

2 A. I'm not following you.

3 Q. If I go to buy a pistol and I'm not a
4 cop. I don't have a badge.

5 A. That's correct.

6 Q. And I want to go buy it from a dealer?

7 A. Right.

8 Q. Don't I have to have a pistol permit?

9 A. Yes. You do. Well, not really. You
10 could buy it, the dealer would hold it and the
11 dealer would hold it until you went and got a
12 pistol permit and/or registered it on your pistol
13 permit and then you are allowed to go pick it up.

14 Q. And if it's a private person I certainly
15 don't have to show a badge or pistol permit.
16 Right?

17 A. Theoretically the private person would
18 give you a bill of sale and sell the gun. Then
19 you would go up with the bill of sale with the
20 gun to the county, register the weapon and you
21 would have to produce a C form showing that you
22 purchased it from the private dealer on your
23 badge and fill all that out and give it to them.

24 Q. I see. And if I didn't purchase it with

1 **[JACK MAHAR - By Ms. Bosman]**

2 my badge but I just purchased it privately, I
3 could still go back and say, oh, I purchased it
4 on my badge?

5 A. I don't know. I don't -- how would you
6 say you didn't? If you had a badge, how would
7 you say you didn't purchase it that way. That's
8 my question. I don't know.

9 Q. Doesn't a pistol have to be registered
10 within ten days?

11 A. I don't know what the exact law is on it
12 in New York right off the top of my head.

13 Q. Well, you can't wait three years. Right?

14 A. Well, I don't know what the time frame
15 was. I really don't know about it. I do know
16 that there was something going on with it and I
17 do know the undersheriff resolved the problem.
18 What's the exact areas around it? I don't know.
19 I really don't know.

20 Q. Is there a department policy that says
21 there's no badge purchases of weapons?

22 A. Unless without, without authorization.
23 You can do it with authorization.

24 Q. And did he have, Mr. Piche have

1 **[JACK MAHAR - By Ms. Bosman]**

2 authorization --

3 A. Again, I don't know that.

4 Q. -- for -- you've got to let me finish.

5 Did he have authorization to possess an
6 unregistered weapon for three years prior to it
7 being corrected by the undersheriff with the C
8 form?

9 A. I don't know how long he had the weapon.
10 I don't know much about it. All I can say to you
11 is you are going to have to ask the undersheriff
12 because he's the one that dealt with the whole
13 process. I did not. I don't know how it all
14 transpired.

15 Q. Does a C form -- have you seen a C form?

16 A. Yeah. I've seen one or two of them.
17 Yes.

18 Q. Does it indicate on the C form when you
19 purchased the weapon?

20 A. My guess is, yes, it would be. I don't
21 know though. I can't recall.

22 Q. Was there an issue with respect to the
23 weapon that you gave to Ms. Vibert being
24 identified as belonging to someone else, had a

1 **[JACK MAHAR - By Ms. Bosman]**

2 different serial number?

3 A. I don't know.

4 Q. You don't recall that?

5 A. That I don't know either.

6 Q. Did anyone inform you of that issue?

7 A. I don't know. I don't know which weapon
8 she was issued because it doesn't come through
9 me. We give the authorization. It's done over
10 in corrections. They handled it.

11 Q. Didn't Ms. Vibert have a gun permit?

12 A. No. She could carry a gun as a peace
13 officer.

14 Q. So, she would do that on her badge?

15 A. No. As a peace officer you can carry a
16 weapon in New York State.

17 Q. I see. So you can be issued one, you
18 can't purchase one without a pistol permit or
19 buying it on your badge?

20 A. You can't purchase a privately held one
21 but you can carry a government-issued one. As a
22 peace officer she can carry a weapon. Same as a
23 police officer is. We have many police officers
24 who do not have pistol permits. They get issued

1 **[JACK MAHAR - By Ms. Bosman]**

2 a gun and they carry it on their badge. They
3 don't fill out C forms for it. They have the
4 gun.

5 Q. Are they permitted to carry the gun?

6 A. 24/7. Yes.

7 Q. Prior to receiving any certification or
8 training?

9 A. Probably, legally, yes. Now, should you,
10 there might be a question on whether or not it
11 would be a smart move because of liability
12 issues, but there's nothing that says they can't
13 have that weapon. I was part of the Troy Police
14 Department in 1976, handed a gun and went out on
15 the street.

16 Q. Was there a missing pistol from transport?

17 A. There was never a missing pistol. That's
18 a misnomer.

19 Q. Okay.

20 A. There was -- what happened, in the end
21 what happened, it was during -- Chief Vibert kept
22 on saying, "We are having a missing pistol."

23 I said, "What do you mean?" I go,
24 "Explain to me."

1 **[JACK MAHAR - By Ms. Bosman]**

2 She goes, "The serial numbers don't
3 match."

4 I go, "How's the count?"

5 She goes, "The count matches."

6 I go, "Then there's something wrong
7 somewhere with paperwork. There's something is
8 going on. You need to investigate and find out
9 what happened."

10 And it turned out, what it turned out to
11 be, and I don't even remember who figured it out.
12 But when a probation officer came into the jail
13 and a transport officer, they used the same
14 locker. They unfortunately each grabbed the
15 different weapons. And that's what happened.
16 And they thought they had the right weapons
17 because they carried the same type of weapon.

18 And that was where the "missing" action
19 came in. But it was never really missing. It
20 was in legal possession of somebody all the time.
21 They just had the wrong one.

22 Q. So, how often are the weapons --

23 A. I don't know. That's something that they
24 are supposed to do. I don't know that.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. How often are the weapons cataloged or
3 checked?

4 A. I don't know how often they do that. I'm
5 not sure what their policy is. I know they
6 periodically check the serial numbers on them. I
7 know they do that. How often that is I can't
8 answer your question. I don't know if this fell
9 in that time frame or not. I don't know that
10 either.

11 Q. So, can you describe for me what the
12 assignments and duties were of Mr. Karam before
13 he went out on stress leave?

14 A. He was -- his main role was Internal
15 Affairs and training and he assisted us on the
16 communications committee in working with our
17 communications, issues that we had at the
18 sheriff's department. He worked that. Mainly
19 those three things are the things he did.

20 Q. Did that communications component include
21 the radios?

22 A. Yes.

23 Q. That job, that was part of that?

24 A. Yes.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. And with respect to the training he
3 actually physically did training. Correct?

4 A. I don't know if he physically did
5 training. I never followed what he actually did.
6 He could have done that training. Yes. He could
7 have assigned others to do the training, other
8 certified instructors or he could have someone
9 else do the training and make sure there's a
10 certified instructor in the room. There's many
11 ways you can do that. I don't know. The job was
12 to see to it that it was done. He oversaw --
13 actually, we had a training sergeant whose main
14 responsibility was that. Jim was to be adjunct
15 to that, to assist whenever he could in that.

16 Q. And was that assignment made in writing?

17 A. I don't know if it was made. I don't
18 think it was made in writing, no.

19 Q. Did you make any of the assignments we've
20 talked about --

21 A. No.

22 Q. -- to Mr. Karam in writing?

23 A. No.

24 Q. Did you make assignments to any of the

1 **[JACK MAHAR - By Ms. Bosman]**

2 employees in writing?

3 A. No. I don't give them their assignments
4 in writing.

5 Q. So if an employee is asking for the scope
6 of their duties or something like that, what do
7 you mean --

8 A. Most of them have job descriptions
9 assigned with them.

10 Q. So the job description would function as
11 a guide for their duties?

12 A. Just a guide or any other duties assigned
13 by a superior officer.

14 Q. Do you know of any reason why Mr. Karam
15 would not receive personnel evaluation reviews
16 during the time he was in the position of
17 lieutenant the last couple of years?

18 A. No. That would come under the prior
19 superintendent and the position of senior chief
20 would come under the chief. If either one
21 weren't available the captain should have done
22 it. I don't review the personnel records. They
23 do it. If there's a problem one they would bring
24 it to our attention.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. A problem one meaning?

3 A. Meaning that someone was not meeting
4 standards. Then they would bring it to our
5 attention. So, I did not review those.

6 MS. BOSMAN: Where did he go? I
7 lost my client.

8 I think that's it, Sheriff. Thank
9 you for your time. Let me check with
10 Mr. Karam.

11 MR. BAILEY: All right. Well,
12 while you are doing that, Mr. Keach can
13 ask you some questions.

14 MR. KEACH: We'll wait until Mr.
15 Karam comes back. What, did he go to the
16 bathroom, A.J.?

17 MS. BOSMAN: I don't know.

18 MR. KEACH: I don't have a whole
19 lot of questions for the sheriff.

20 MR. BOSMAN: Okay.

21 MR. KEACH: So, I'll just take care
22 of that now and whatever follow-up you
23 have you can ask.

24 MS. BOSMAN: Okay.

1 **[JACK MAHAR - By Mr. Keach]**

2 BY MR. KEACH:

3 Q. All right. Sheriff Mahar, there's an
4 been allegation in this case that you failed to
5 provide Lieutenant Karam with a department-issued
6 car.

7 What role during her one-year employment
8 with Rensselaer County did Ruth Vibert have
9 played in the decision to provide Lieutenant
10 Karam with a department-issued car?

11 A. The role she would play? I mean, if she
12 felt it was necessary for Lieutenant Karam to
13 have a vehicle, she could have brought it to the
14 undersheriff's attention. The undersheriff would
15 have made the decision or if he wasn't sure how
16 he wanted to deal with it, he could have brought
17 it to me and then we could have made the decision
18 either to approve or denying something like that.

19 Q. Let me say this a different way.

20 Did Ruth Vibert play any role in the
21 decision about whether or not to provide
22 Lieutenant Karam with a department-issued
23 vehicle?

24 A. To my knowledge, no.

1 **[JACK MAHAR - By Mr. Keach]**

2 Q. In the course of her examination today
3 Attorney Bosman has addressed various e-mails
4 that were sent to Mr. Karam that made reference
5 to or negative reference to individuals of Arab
6 descent.

7 Do you know, sir, did Ruth Vibert send
8 any e-mails that made reference to anyone of Arab
9 descent?

10 A. To my knowledge, no.

11 Q. Now, there's been a great deal of
12 discussion today about 207-c benefits and your
13 decision about whether or not to approve Mr.
14 Karam's 207-c benefits.

15 What role would Ruth Vibert have played,
16 if any, in your decision to grant or deny or
17 delay Mr. Karam's application for 207-c benefits?

18 A. In this particular case, none.

19 Q. You didn't -- it's fair to say you didn't
20 even consult with Ruth Vibert about that issue,
21 did you?

22 A. Not in this case. No.

23 Q. And did Ruth Vibert participate in any of
24 these conversations that you had with Mr. Karam

1 **[JACK MAHAR - By Mr. Keach]**

2 about it being Christmastime and he didn't have
3 any employment and that type of thing?

4 A. No. She did not.

5 Q. And just relative to the request for
6 207-c benefits, you eventually approved Mr.
7 Karam's application for 207-c benefits. Didn't
8 you?

9 A. Yes. I did.

10 Q. And that approval was made after you had
11 an opportunity to have an independent psychologist
12 evaluate Mr. Karam's claims to see whether or not
13 they were legitimate. Isn't that true, sir?

14 A. Yes.

15 MS. BOSMAN: Objection to form.

16 Q. And once you reviewed that independent
17 psychologist's review and saw that Mr. Karam was
18 suffering from psychological illness, you decided
19 to approve the claim?

20 A. Yes.

21 Q. Obviously with consulting with labor
22 counsel?

23 A. Yes. That's correct.

24 Q. And that claim was paid in full including

1 **[JACK MAHAR - By Mr. Keach]**

2 all back pay. Wasn't it?

3 A. Yes. It was.

4 Q. Did you ever hear Ruth Vibert make
5 comments about Mr. Karam's Arab ancestry at any
6 point in time during her one-year employment with
7 the sheriff's department?

8 A. No.

9 Q. And do you know, it's fair to say, sir,
10 during her employment -- well, during the time of
11 her employment with the sheriff's department that
12 Mr. Karam was also employed, she did say to you
13 that she was having difficulty dealing with
14 Mr. Karam, didn't she?

15 A. Yes. She did.

16 Q. And during those conversations did she
17 make any reference to her opinion as to why she
18 was having a difficult time dealing with
19 Mr. Karam?

20 A. Her contention was that Mr. Karam wasn't
21 cooperating with her.

22 Q. And did she give an opinion as to why
23 that was the case?

24 A. No. She didn't understand why.

1 **[JACK MAHAR - By Mr. Keach]**

2 Q. All right. She didn't say, for instance,
3 she didn't say anything about Mr. Karam not
4 liking women, did she?

5 A. No. Not to my knowledge.

6 Q. And she didn't say anything about Mr.
7 Karam's Arab ancestry or, excuse me, Lebanese
8 ancestry impacting on his ability to take
9 direction from a woman, did she?

10 A. Not to my knowledge, no.

11 Q. I just want to confirm. There were
12 certain aspects of Mr. Karam's job duties that
13 were outside of Ms. Vibert's realm of
14 supervision. Isn't that true?

15 A. Yes. That's correct.

16 Q. Did she have any ability to supervise
17 Mr. Karam?

18 A. Yes. She did.

19 Q. What areas did she supervise Mr. Karam?

20 A. Every other area outside of any
21 investigation that would have been a covert
22 Internal Affairs investigation.

23 Q. All right. When it came to the Internal
24 Affairs investigations she was excluded from

1 **[JACK MAHAR - By Mr. Keach]**

2 those?

3 A. That's correct.

4 Q. Now, Ms. Bosman asked you -- excuse me,
5 Attorney Bosman asked you about Ms. Vibert's role
6 in potentially disciplining Mr. Karam for
7 misusing sick time. Do you remember that?

8 A. Partially. Not all of it, but I do
9 remember some of it. Yes.

10 Q. Are you aware that Ms. Vibert at some
11 point in time did endeavor to discipline
12 Mr. Karam for abusing sick time?

13 A. What I recall and I remember her saying
14 that she drew up paperwork. I don't know if it
15 was ever served. Because I believe he was out
16 on -- I don't know if he had ever come back to
17 work at that point in time.

18 Q. All right. Ms. Vibert testified that you
19 had directed her to not -- not to serve that
20 paperwork because you felt it was your job as the
21 sheriff to impose any discipline on command
22 staff. Does that refresh your recollection about
23 what happened?

24 A. I don't believe that quite would be true

1 **[JACK MAHAR - By Mr. Keach]**

2 because I would not -- Colonel Loveridge and
3 others were always the ones who did the
4 discipline or Captain Smith would do it to the
5 command staff if appropriate, which was rare. Do
6 you know what I'm saying? If he had to do that.
7 I don't recall I would have said to do that.
8 What I think -- I'm trying to recall everything,
9 so to try to truthfully answer your question I
10 think I was holding back on issuing of the
11 charges because I told her we treat our command
12 staff differently when it comes to the sick
13 leave. I wanted to look at what we had and see
14 did this rise to the occasion. And Lieutenant
15 Karam never came back to work so therefore it was
16 never done.

17 Q. All right. So you and I can agree that
18 if a decision was going to be made to discipline
19 command staff that would have to be approved by
20 you?

21 A. It doesn't have to be, no. Would they
22 inform me? More than likely, yes. Would I say
23 to them do your job, yes.

24 Q. Did Mrs. Vibert play any role in the

1 **[JACK MAHAR - By Mr. Keach]**

2 decision of whether or not to give Mr. Karam a
3 cell phone?

4 A. No.

5 Q. All right. The decision about issuing
6 department-issued cell phones, that stemmed from
7 elsewhere in your department?

8 A. Probably prior to her coming. And she
9 could have brought it up. She never brought it
10 up to nor did anyone ask for him to have a cell
11 phone.

12 Q. Now, it's my recollection, I want you to
13 confirm for me if I'm wrong, that Mrs. Vibert
14 started working at your department I believe in
15 March and Mr. Karam had terminated -- had left
16 employment in terms of going out on leave in
17 August?

18 A. Correct. I think that's -- you are both
19 right.

20 Q. And you and I can agree that Ruth Vibert
21 had no role in anything that happened at the
22 sheriff's department prior to the beginning of
23 her employment in March, I believe it was 2012, I
24 could have been off on the year there. Actually,

1 **[JACK MAHAR - By Mr. Keach]**

2 I think it was --

3 A. I think it was 2013.

4 Q. Yes. '13. You are right, sir. March.

5 She had no role with the Rensselaer
6 County Sheriff's Department prior to March of
7 2013?

8 A. That's correct.

9 Q. She was working up at RPI?

10 A. I don't know where she was working. She
11 might have been at RPI. It was out of our -- I
12 don't know when. She used to be at RPI. Yes.

13 Q. All right. And there was no -- and she
14 played no role in anything that happened before
15 March of 2013. Fair to say?

16 A. Fair to say.

17 Q. Is it appropriate for individuals
18 employed by the Rensselaer County Sheriff's
19 Department to receive their personal mail at the
20 facility? Meaning at the public safety building.

21 A. Again, I have no idea how the mail works
22 in the sheriff's office, who gets their mail.

23 I do know they have mailboxes that we
24 have over there that they get their -- their

1 **[JACK MAHAR - By Mr. Keach]**

2 interoffice mail. They would get like notices
3 for training and things like that will get put in
4 their individual mailboxes. But I don't know of
5 anybody that would -- we would ever contact by
6 using a personal mail.

7 Q. You didn't get personal mail at the
8 sheriff's office?

9 A. No.

10 Q. Did you?

11 A. No.

12 Q. In terms of personal mail. You got your
13 personal mail at your house?

14 A. Correct.

15 Q. Do you know of anyone else in the
16 Rensselaer County Sheriff's Department that
17 received their personal mail at 400 Main Street
18 in Troy, New York, which is the location of the
19 Rensselaer County Public Safety Building besides
20 Lieutenant James Karam?

21 A. Two things. One, I'm going to correct
22 it's 4000 Main Street for the record.

23 Q. What did I say, 400? Sorry about that.

24 A. That's all right. And to answer your

1 **[JACK MAHAR - By Mr. Keach]**

2 question. No. I don't.

3 Q. What role did Ruth Vibert play, if any,
4 in the decision to deny Mr. Karam the use of
5 donated sick leave from other employees?

6 MS. BOSMAN: Objection.

7 Q. You can answer.

8 A. None to my knowledge.

9 Q. That was a decision that you made in
10 conferring with labor counsel and others in
11 county government?

12 A. Correct. Yes.

13 Q. What role did Ruth Vibert play, if any,
14 in your -- in the Rensselaer County Sheriff
15 Department's investigation into the medical
16 records issue?

17 A. I don't know for sure. I don't know if
18 she may have been asked after Lieutenant Karam
19 left to look for records or anything like that.
20 She may have. I don't know that so -- or to
21 interview anybody that might have come in
22 and inside the facility. I don't know if she was
23 or wasn't. That I can't recall.

24 Q. Apart from potentially gathering some

1 **[JACK MAHAR - By Mr. Keach]**

2 records and interviewing people in the facility,
3 did she play any other role in that investigation
4 to your knowledge?

5 A. To my knowledge, no.

6 Q. What role did Ruth Vibert play in the
7 investigation into Mark Piche's conduct?

8 A. I don't understand what you mean by his
9 conduct.

10 Q. It's my understanding at some point in
11 time, I mean there was testimony this afternoon,
12 now I'll admit given the manner in which that
13 testimony was elicited from you that I may have
14 been dozing off and/or just trying to tune it
15 out, but regardless there was some discussion
16 about Mark Piche's, Mark Piche this afternoon so.
17 And there was at some point in time an
18 investigation by your department into Mark
19 Piche's conduct. Am I right?

20 A. Yes.

21 Q. What role did Ruth Vibert play in any
22 effort by Mark Piche or by any effort by your
23 department to investigate Mark Piche?

24 A. The best answer I can give you is I don't

1 **[JACK MAHAR - By Mr. Keach]**

2 know. I don't know when -- the month it actually
3 occurred. I don't even know if Ruth was there
4 then. I don't know that.

5 Q. Do you have any knowledge as you sit here
6 that Ruth was involved?

7 A. No. Because I know little of it myself
8 because the undersheriff handled all of it.

9 Q. So your answer is no, you don't have any
10 knowledge?

11 A. That would be a fair statement. Yes.

12 Q. All right. And what role did Ruth Vibert
13 play in the investigation into Kevin Rogers'
14 conduct?

15 A. I don't believe any role.

16 Q. I'm going to visit this mail issue and
17 then wrap things up.

18 If Lieutenant Karam had received mail at
19 the Rensselaer County Sheriff's Department, and
20 just answer this question yes or no for me, it
21 would be the obligation of the sheriff's
22 department to open that mail and determine
23 whether or not that mail was related to
24 Mr. Karam's official job duties and his pending

1 **[JACK MAHAR - By Mr. Keach]**

2 investigations or whether it was personal in
3 nature. Isn't that true?

4 MS. BOSMAN: Objection.

5 A. I believe the answer is yes.

6 Q. I mean, if Mr. Karam got an envelope, got
7 mail from somebody, you'd want to know does it
8 have to do with the pending investigations or is
9 it, you know, him getting solicitation to buy
10 magazines or something?

11 A. That's correct.

12 MR. KEACH: Now, Sheriff Mahar, I'm
13 just going to include, sir, and, John,
14 I'm assuming you are going to agree with
15 me, obviously for the record I'm involved
16 in the lawsuits involving the access to
17 the medical records, I'm involved in the
18 lawsuit involving the access to Peter
19 Colantonio's E-justice New York records
20 and I'm also involved in Mrs. Vibert's
21 lawsuit against the county for wrongful
22 termination. I assume, John, that you
23 agree with me that I'm not, by questioning
24 Sheriff Mahar today, I am not waiving my

1 **[JACK MAHAR - By Ms. Bosman]**

2 rights?

3 MR. BAILEY: No. No. I agree with
4 that.

5 MR. KEACH: All right. Just let me
6 finish. I am not waiving my rights to
7 take testimony or take Sheriff Mahar's
8 testimony in those other cases.

9 MR. BAILEY: You are not.

10 MR. KEACH: Okay. Thank you,
11 Sheriff Mahar. That concludes my
12 examination of you this afternoon.

13 BY MS. BOSMAN:

14 Q. Just a couple and then you are free.

15 A. Sure.

16 Q. Did you terminate Ruth Vibert?

17 A. How do I answer that?

18 MR. KEACH: Hold on a second.
19 Somebody is trying to get back in.

20 MS. BOSMAN: You can't discuss the
21 question with your counsel while it's
22 pending. Sorry.

23 MR. BAILEY: Well, actually the
24 rule is this. He can't request an

1 **[JACK MAHAR - By Ms. Bosman]**

2 adjournment. Okay? But, Sheriff, if you
3 can't answer the question because you
4 don't understand it, that's your answer.
5 If you can, answer it.

6 A. I think the word is used -- is wrong out
7 of its context.

8 Q. What do you mean?

9 A. I didn't terminate her. She did not meet
10 the requirements. Therefore, she was asked to
11 leave. If you want to say that's termination,
12 fine, but I don't call it I terminated her. I'm
13 saying she didn't meet the requirements to stay
14 employed there.

15 Q. What requirements?

16 A. She had -- an educational requirement.

17 Q. And you didn't know that when you hired
18 her?

19 A. Is that a question?

20 Q. Yes. It's a question. You didn't know
21 that when you hired her?

22 A. Yes. I did know that when we hired
23 her -- no. Initially, no. Later, yes.

24 Q. Now, with respect to --

1 **[JACK MAHAR - By Ms. Bosman]**

2 MR. KEACH: A.J., just to
3 interject. I'm happy to provide you with
4 a copy of Sheriff Mahar's Rule 30(b)(6)
5 deposition in the Vibert case if you'd
6 like to have it, which I think all of
7 these issues were addressed.

8 MS. BOSMAN: Sure.

9 Q. Did you know Kathy Jimino before you were
10 elected sheriff?

11 A. Yes. I did.

12 Q. How did you know her?

13 A. Kathy Jimino was the -- I met Kathy
14 Jimino when she was the -- the correct title I'm
15 not exactly sure. The City of Troy and the
16 County of Rensselaer shared computer facilities
17 and responsibility. Kathy was the person who
18 oversaw that. I was doing a lot of computer work
19 with the City of Troy at the time and I did a lot
20 of work with the Rensselaer County data
21 processing unit and that's how I got to be
22 introduced to Kathy Jimino.

23 Q. Did Mr. Rogers, Kevin Rogers' father --

24 A. Um-hmm.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. -- have anything to do with your
3 campaign?

4 A. No. Never.

5 Q. When you were just asked questions a
6 moment ago by Mr. Keach, you said that you don't
7 receive personal mail at the office. Right?

8 A. I don't receive personal mail. No.

9 Q. Have you ever received a Christmas card
10 from someone?

11 A. Business-related mail, yes. All business
12 related.

13 Q. So, if someone --

14 A. Not personal.

15 Q. Well, if someone sent you a Christmas
16 card would they be sending you a Christmas card
17 for business purposes?

18 A. Many of the attorneys that we do business
19 with send me Christmas cards. A lot of other
20 places do.

21 MS. BOSMAN: Do you?

22 MR. BAILEY: I don't know. I'm
23 going to do it from now on.

24 A. We receive -- a lot of companies that we

1 **[JACK MAHAR - By Ms. Bosman]**

2 do business with send cards, stuff like that.

3 But I don't receive none of my personal cards

4 there, no.

5 Q. Have you ever received a note from

6 anyone?

7 A. I don't know. I don't know. I don't

8 recall.

9 Q. Okay. Well, is there a policy in the
10 sheriff's department in how to handle mail when
11 an employee is out sick?

12 A. Their company mail?

13 Q. Any mail.

14 A. Actually, I don't know if there's a
15 policy, no. I don't know. Normally -- I don't
16 know how they would deal with that. Probably
17 they ask one of their friends to bring it to them
18 or something. I don't know.

19 Q. You indicated that no one had asked for
20 Jim Karam to have a cell phone? Is that what you
21 testified to? No one asked for him to have one?

22 A. I don't recall anyone asking for Internal
23 Affairs to have a cell phone to be honest with
24 you.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. Didn't Jim ask for one?

3 A. He may have. I -- you asked if anyone
4 else did.

5 Q. Oh, I see.

6 A. At least that's the way I understood it.

7 Q. And then the paperwork that you
8 referenced that was drawn up by Ms. Vibert, you
9 didn't direct her to do that?

10 A. No. She did the investigation on her
11 own, drew up the paperwork and wanted to serve it
12 and I told her to hold off on serving it.

13 Q. How long did she supervise Mr. Karam?

14 A. Well, she would have -- whatever
15 Jim was -- excuse me, whenever Lieutenant Karam
16 was working from the day she was hired in March
17 until when Jim left in August or Lieutenant Karam
18 left in August.

19 Q. You talked about an independent
20 psychologist. He used the word independent.

21 Mr. Karam didn't have any role in
22 selecting the psychologist that he was examined
23 by at your request, did he?

24 A. No.

1 **[JACK MAHAR - By Ms. Bosman]**

2 Q. So, when you say independent psychologist,
3 when you understood that term as it was used by
4 Mr. Keach a moment ago, do you understand that
5 Dr. Denea, whatever his name is, had any more
6 insight with respect to Mr. Karam's injury and
7 illness than his treating doctor did?

8 A. I have no idea.

9 Q. Am I correct that you did not approve Mr.
10 Karam's 207-c benefits until after he filed or
11 commenced a suit through a Notice of Claim --

12 A. I don't know what the time frame was.

13 Q. -- and filing an action?

14 A. I signed it when counsel gave me the
15 acknowledgement that everything is totally fine
16 to do that with. He drafted the letter for me.
17 That's the one we signed, sent the letter out
18 that it was approved. That's when I did it. I
19 don't know the date of that. To be honest with
20 you I really don't know. I'm sure if I see the
21 letter and it has the date on it I can tell you
22 what it is.

23 Q. And that was at the time that you
24 received a report from Dr. Denea?

1 [JACK MAHAR - By Ms. Bosman]

2 MR. BAILEY: Object to the form.

3 A. I don't know.

4 MR. BAILEY: Go ahead.

5 THE WITNESS: I'm sorry.

6 A. I don't know the exact time frame with
7 that, if it was afterwards or how long afterwards
8 or how long.

9 MS. BOSMAN: Okay. Thank you.
10 With the exception of the documents I
11 reserve my right to reexamine this
12 witness.

13 MR. BAILEY: When you say with the
14 exception of the documents?

15 MS. BOSMAN: That's what I'm
16 saying. I don't have the documents. All
17 of your responses to my --

18 MR. BAILEY: Those documents are
19 not due until Monday.

20 MS. BOSMAN: Okay.

21 MR. BAILEY: Okay?

22 MS. BOSMAN: All of your responses
23 to my document demands indicate that
24 you've requested them but you haven't

1 **[JACK MAHAR - By Ms. Bosman]**

2 received them yet. So, I don't
3 anticipate there will be any questions
4 that I have for him regarding those
5 documents, but I'm reserving my right to
6 ask him questions if something comes up.
7 And I can do that in writing.

8 MR. BAILEY: Yes. I don't know
9 what right you are reserving. I don't
10 want to get into an argument. It's 5:30
11 in the afternoon.

12 MR. KEACH: On Friday.

13 MR. BAILEY: Let's see where we
14 are. I'll be reasonable about whatever
15 we need to do here to get it done.

16 MR. KEACH: A.J., I'll just say
17 that to the extent, that I won't object
18 to the extent you get, you believe you
19 have further area of inquiry provided --
20 further area of inquiry based on the
21 documents provided that you aren't
22 covering old ground with the witness.

23 And, John, I would assume the
24 sheriff wants to read and sign?

1 **[JACK MAHAR - By Ms. Bosman]**

2 MR. BAILEY: Yes. Yes.

3 MS. BOSMAN: KJ 2 and KJ 4.

4 MR. BAILEY: KJ 2 and KJ 4.

5 MS. BOSMAN: Those were the two
6 referenced that you needed copies of,
7 that were used today with this witness,
8 but had been previously marked at Kathy
9 Jimino's deposition.

10 MR. BAILEY: Yes. Yes.

11 MS. BOSMAN: Okay.

12 MR. BAILEY: And the others we have
13 copies of.

14 MR. KEACH: All right. I also need
15 copies. I only have Exhibits 1 and 2.
16 I'd like to get the rest of them before
17 we take off.

18 MR. BAILEY: Yes.

19 MR. KEACH: I think that concludes
20 things on the record. John, you agree?

21 MR. BAILEY: Yes. Yes. Good.

22 MR. KEACH: Just off the record.

23 MS. BOSMAN: Wait a minute. It's

24 my --

1 **[JACK MAHAR - By Ms. Bosman]**

2 MR. KEACH: Can we go back on? I
3 apologize. I didn't mean to trample on
4 A.J.'s right to close the deposition.

5 So, A.J., whatever you have to say
6 here, let's say it and let's get this
7 done.

8 MS. BOSMAN: Why are you being
9 nasty? I don't understand.

10 MR. KEACH: I'm not being nasty.
11 I'm being untempered because I'm sick of
12 sitting here. Let's get this done. What
13 do you have left to do?

14 MS. BOSMAN: I don't have anything
15 left to do. I resent you asking Mr.
16 Bailey if he's done and we can close the
17 record when it's my deposition. I have a
18 right to object to that. I don't think
19 that that is worthy of your consternation
20 at all.

21 MR. KEACH: Fine. A.J., is there
22 anything you'd like to say before we
23 close the record?

24 MS. BOSMAN: No. I will close the

1 **[JACK MAHAR - By Ms. Bosman]**

2 record. The record is closed.

3 (Whereupon, the testimony of JACK
4 MAHAR concluded at 5:35 p.m.)

[illegible]

Notary Public

1
2
3 STATE OF NEW YORK

4 COUNTY OF _____
5
6

7 I have read the foregoing record of my
8 testimony taken at the time and place noted in the
9 heading hereof, and I do hereby acknowledge it to
10 be a true and correct transcript of same.
11
12
13

14 _____
15 JACK MAHAR
16
17

18 Sworn to before me this

19 _____ day of _____, 20__.
20 _____

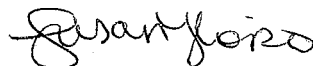
21 NOTARY PUBLIC
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C E R T I F I C A T I O N

I, SUSAN FLORIO, Registered Professional Reporter and Notary Public in and for the State of New York, do hereby certify that the foregoing is a true, complete and accurate transcript to the best of my knowledge, skill and ability of the deposition of said witness who was first duly sworn by me on the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am not related to or employed by any of the parties to the action in which this deposition was taken, or any attorney or counsel employed in this action, nor am I financially interested in the case.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of February, 2015.



SUSAN FLORIO, RPR

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Q. Are there also pending charges,
internal charges from the sheriff's
department against that same individual?

42

Q. The individual that you just
referenced that's been out a year to a
year and a half due to a pending matter,
is that individual Mr. Rogers?

43

Q. Had the discipline for falsifying
records you referenced occur prior to his
injury?

53

Q. And is that HIPAA investigation
being handled by someone new now?

94

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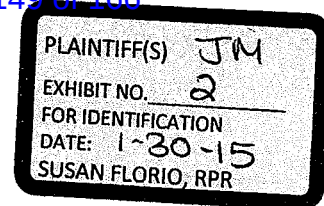
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On Sunday, March 7, 2010 3:47 PM, "Karam, James" <JKaram@rensco.com> wrote:

-----Original Message-----

From: Russo, Patrick

Sent: Fri 3/5/2010 11:23 AM

To: Karam, James

Cc:

Subject: FW: What the Taliban do when they aren't killing people....

-----Original Message-----

From: bob [mailto:its@fairpoint.net]

Sent: Thursday, March 04, 2010 9:35 PM

To: Tebrock, Harry; Sievers, Bob; Robert Talbot Jr.; Russo, Patrick; Olds, David; Nuttall, Bob RJ; John Rice; Afinowicz, Tom

Subject: Fw: What the Taliban do when they aren't killing people....

----- Original Message -----

From: Bill Slowik <mailto:dbslow@cox.net>

To: bob <mailto:its@fairpoint.net> ; Jeffrey Slowik <mailto:vehiclean@msn.com> ; Jerry Venice <mailto:gerryvenice@windstream.net> ; whizzz@comcast.net

Sent: Thursday, March 04, 2010 9:12 PM

Subject: Fw: What the Taliban do when they aren't killing people....

From: tony ricevuto <mailto:tony_ricevuto@hotmail.com>

Sent: Thursday, March 04, 2010 11:18 AM

Subject: FW: What the Taliban do when they aren't killing people....

From: vfrdante@msn.com
To: bpete@speakeasy.net; diego@canyonair.com; dwjsw@pacbell.net;
doxquarter@aol.com; marcuzzi@mt.net; hank@masterdetectives.com;
jimcordner@aol.com; idratherbehunting03@hotmail.com; ssaccoman@athena-ni.com; tonyoch@live.com; tony_ricevuto@hotmail.com
Subject: FW: What the Taliban do when they aren't killing people....
Date: Thu, 4 Mar 2010 06:38:48 -0800

> > Subject: What the Taliban do when they aren't killing people....
>
>
> No virus found in this incoming message.
> Checked by AVG - www.avg.com
> Version: 9.0.733 / Virus Database: 271.1.1/2716 - Release Date: 02/28/10
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PLAINTIFF(S) JM
 EXHIBIT NO. 3
 FOR IDENTIFICATION
 DATE: 1-30-15
 SUSAN FLORIO, RPR

RENSSELAER COUNTY CIVIL SERVICE COMMISSION

EFFECTIVE DATE <u>5</u> <u>4</u> <u>12</u>		REPORT ALL PERSONNEL CHANGES ON THIS FORM, SEND THREE COPIES PRIOR TO PAYROLL AFFECTED BY THIS CHANGE		PAY PERIOD ENDING DATE			
		REPORT OF PERSONNEL CHANGE					
NAME <u>DEAN, GREGORY</u>		SOCIAL SECURITY NO. <u>056-72-3055</u>					
ADDRESS _____		EMPLOYEE NO. <u>260301767</u>					
CITY/STATE/ZIP _____		RETIREMENT NO. _____					
TOWN _____		<input type="checkbox"/> Veteran <input type="checkbox"/> Disabled Veteran <input type="checkbox"/> Non-Disabled Veteran <input type="checkbox"/> Exempt Volunteer Fireman					
AGENCY _____							
TITLE OF POSITION <u>CORRECTIONAL SERGEANT</u>	Vacancy #	Position #	Hourly Rate	Annual Rate	Bi-Weekly Hours	Fringe Code	Grade
NAME OF LAST INCUMBENT							
DEPARTMENT <u>SHERIFF</u>	APPOINTMENTS			ELIGIBLE LIST NO.			
DEPARTMENT CODE <u>A3100</u>	PERMANENT						
COST CENTER <u>1020 A3100</u>	CONTINGENT PERMANENT						
PAY CYCLE _____	PERMANENT PROMOTION						
	PROVISIONAL						
	PROVISIONAL PROMOTION						
<input type="checkbox"/> COMPETITIVE <input type="checkbox"/> LABOR <input type="checkbox"/> EXEMPT <input type="checkbox"/> UNCLASSIFIED <input type="checkbox"/> NON-COMPETITIVE	TEMPORARY			FROM	TO		
	TERM OF OFFICE						
	PROBATIONARY PERIOD						
PERSONNEL CHANGES							
RESIGNATION: MUST ATTACH RESIGNATION LETTER				COMPLETION OF PROBATIONARY PERIOD			
RETIREMENT				CHANGE TO GRADE RATE *			
TERMINATED				CHANGE IN TITLE			
DECEASED				CHANGE IN SALARY *			
LAYOFF				CHANGE IN FRINGE CODE			
LEAVE OF ABSENCE: FROM _____ TO _____ CODE _____				CHANGE IN BASE SCHEDULED HOURS			
TRANSFER				CHANGE IN NAME			
REINSTATEMENT				CHANGE IN ADDRESS			
SUSPENSION				OTHER			
REMARKS: <u>207C INJURY 5/4/12 - 5/24/12</u>							
REQUESTED BY _____				CIVIL SERVICE COMMISSION			
DATE _____				<input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED _____			
APPROVED BY _____ DATE _____							
REVIEWED BY _____ DATE _____							
ENTERED BY <u>KAC</u> DATE <u>10/15/13</u>				BY <u>[Signature]</u> DATE <u>10/15/13</u>			

Form MSD-426R
 Rev 10-12-07

Distribution:

White-Civil Service, Green-Employee, Yellow-Department
 Pink-Human Resources, Gold-Finance

* Grade Rates and Salary Changes
 Require Budget Department Approval

Rensselaer County Sheriff's Office Employee Time Sheet

Dates: From: 5/12 To: 5/25/12

Bureau: Civil 04 Corrections Patrol

Date of Hire: 5/14/12 Shift Hours: E

	VAC	SICK	COMP	PER	HOL	
Brought Forward	100.75	4.50		0	8	
Earned	.50	.50				
Sub Total	102.25	5.00				
Used						
Total	102.25	5.00				

Day	Date	Hours Worked	VAC Used	Sick Used	Overtime (POT)	Overtime (SOT)	Comp Earned	Comp Used	Per LV Used	HOL Earned	HOL Used	MIL Used	Remarks
Sat	5/12	7.00											
Sun	5/13	7.00											
Mon	5/14	7.00											
Tue	5/15	7.00											
Wed	5/16	7.00			2.00								
Thu	5/17	7.00											
Fri	5/18	7.00											
Sat	5/19	7.00											
Sun	5/20	7.00											
Mon	5/21	7.00											
Tue	5/22	7.00											
Wed	5/23	7.00			2.00								
Thu	5/24	7.00											
Fri	5/25	8.00											
Total This Period		7.00			4.00				0	0			
Brought Forward	5/12/12	102.25	1.25	1.00	100.75	5.50			4.00	4.00	0.00		
Total To Date		102.25			100.75				4.00	4.00	0.00		

Certified correct as to time and credits.

Employee Signature: [Signature]

Supervisor Signature: [Signature]

Date: 7-2-12

Rensselaer County Sheriff's Office Employee Time Sheet

Name: Brown, Greg

Dates: From 4/28 To 5/11/12

Bureau: Civil Corrections Patrol

Date of Hire: 5/24/04 Shift Hours: B

	VAC	SICK	COMP	PER
Brought Forward	0.00	45.25		0
Earned	2.25	1.5		0
Sub Total	2.25	46.75		0
Used	2	0		0
Total	0.25	46.75		0

Day	Date	Hours Worked	VAC Used	Sick Used	Overtime (POT)	Overtime (SOT)	Comp Earned	Comp Used	Per LV Used	HOL Earned	HOL Used	MIL
Sat	4/28	8			2.580							
Sun	4/29	VAC	8									
Mon	4/30	8			2.5							
Tue	5/1	OFF								8		
Wed	5/2	OFF			2							
Thu	5/3	8			2.5							
Fri	5/4	8.25			2.5							
Sat	5/5	2.00										
Sun	5/6	↓										
Mon	5/7	↓										
Tue	5/8	OFF										
Wed	5/9	OFF			2							
Thu	5/10	2.00										
Fri	5/11	↓										
Total This Period	22.15	8	0	13	0				0	8	0	
Brought Forward	319	65	110	83.15	5.5				40	32	32	
Total To Date	648.15	73	10	96.15	5.5				40	40	32	

Certified correct as to time and credits.

Employee Signature

For G. Brown (44)

Supervisor Signature

29.75 44-42.25-207

PLAINTIFF(S) JM
 EXHIBIT NO. 4
 FOR IDENTIFICATION
 DATE: 1-30-15
 SUSAN FLORIO, RPR

LEAVE BANK PROPOSAL

Sick Leave Bank

A sick leave bank may be established for an individual employee upon exhaustion of all leave accruals. Voluntary contributions of sick leave accrual and/or vacation leave accrual may be made to an individual's sick bank by employees represented by the collective bargaining unit and by employees who are not represented by a collective bargaining unit. Likewise, employees represented by the collective bargaining unit may donate sick or vacation leave accrual to a sick bank established for an employee who is not represented by a collective bargaining unit. Contributions are to be made specifically for the individual in need.

Contributions to the sick bank will be made in units of hours and will be credited to the sick bank of the individual for whom the bank is established in units of hours.

Contributions may be made to the sick bank of an employee within the same department as the contributing employee as well as the sick bank of an employee in another department.

The maximum amount of sick leave each employee may donate in one year is the equivalent of earned annual sick leave, provided they may not donate more sick time than they have accrued. Employees may also donate an unlimited amount of vacation time, up to the maximum allowable annual accrual, to the bank.

An individual employee for whom a sick bank is established may have use of the sick bank leave, up to the amount donated on his or her behalf, as well as use of extended sick leave in accordance with Section 21.1 in the Collective Bargaining Agreement, the combination of both not to exceed 40 weeks. An employee who has drawn on this bank will not be expected to make repayment for the number of days used.

The Department Head and the Director of Human Resources will jointly administer the sick bank leave. They will require physician's and other necessary documentation as they determine that the employee is unable to work for a minimum of 4 weeks. They will require that notice of leave time donations be on a form prepared by them. The Bargaining Agent will communicate to its members the information necessary for them to make said donations. All donations to the sick leave bank must be made within 30 calendar days of the Department Head approval of the request for donations.

Criteria for extended sick leave as provided in article 21.1.1 of the Collective Bargaining Agreement shall continue in full force and effect.

This policy is not to be used as a substitute for Social Security Disability or Disability Retirement.

County of Rensselaer by:

Kathleen J. Dinnin

Date: 3/11/03

United Public Service Employees Union by:

David P. Galt

Date: 03/11/03
Victor A. Hahn 3/11/03
Harry A. Robert 3/11/03

Russell Denea, M.D., D.F.A.P.A.

Psychiatry and Psychoanalysis

268 Broadway, Suite 202
Saratoga Springs, New York 12866
Telephone: (518) 584-8888
Facsimile: (518) 584-1666

May 3, 2013

Brian J. Goldberger, Esq.
Goldberger and Kremer
39 North Pearl Street Suite 201
Albany, New York 12207

Re: James Karam
DOB: 6/10/1968

Dear Mr. Goldberger:

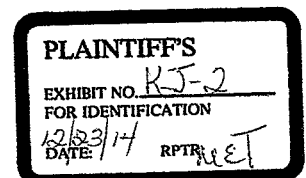
Please find enclosed the consultation report for the above-named individual. I also enclose a copy of the signed consent to allow me to share information with you and the Sheriff's Department. A statement for charges for the consultation is also enclosed.

Thank you for allowing me to assist you in this consultation. If there are any questions or concerns about the consultation or the report please feel free to contact me.

Sincerely,



Russell Denea, M.D., DLFAPA
Enc.



Russell Denea, M.D. , D.F.A.P.A.

Psychiatry and Psychoanalysis

268 Broadway, Suite 202
Saratoga Springs, New York 12866
Telephone: (518) 584-8888
Facsimile: (518) 584-1666

May 1, 2013

Brian J. Goldberger, Esq.
Goldberger and Kremer
39 North Pearl Street Suite 201
Albany, New York 12207

Re: Karam, James J.
DOB: 6/10/68

At the request of the above-named counsel I performed a psychiatric examination and evaluation of James J. Karam, which included review of medical records and other information listed below and an interview on March, 22, 2013 which lasted approximately 150 minutes.

Prior to this evaluation I reviewed the following information:

1. Employee Injury/Illness Due Process Review Application dated 10/31/12
2. Rensselaer County Correctional Facility Incident Report dated 10/31/12
3. Records from Family Practice Averill Park of a patient encounter dated 10/05/2012 9:10 AM
4. Records from Family Practice Averill Park of a patient encounter dated 09/04/2012 12:30 PM
5. Prescription for James Karam from Deborah Hildreth, RPA-C of Family Practice Averill Park dated 9/4/12 stating "out of work until further notice"
6. Individual Psychological Evaluation of James J. Karam completed by Richard E. Ovens, Psy.D. dated 10/08/12
7. Letter to then Sheriff Keating from T/Sgt. Paul J. Higgitt Jr. with the subject of "Recognition of Staff involved in 14 February 1993 incident" with attachment of "Voluntary Statement Rensselaer County Sheriff's Dept." completed by James Karam signed 18 February 1993 and witnessed by Sgt. S. R. Lucy

Subsequent to this evaluation I reviewed the following information:

1. A collection of copies of diplomas, awards, certificates of training, employment records, personnel evaluations, disciplinary actions, and academic records dating from 1988 through 2012.
2. Records from Karner Psychological Associates including an evaluation performed by Karen Miscavage, L.M.H.C. on 9/03/12 with a followup session 9/04/12 and Case Notes completed by June Morier, L.C.S.W.-R. for psychotherapy 9/05/12 and 9/12/12.

Identifying Data: James J. Karam is a 44-year-old married white male who lists his address as 21 Edwards Road, Wynantskill, New York, 12198. Telephone-518-283-0736.

Mr. Karam arrived for the appointment accompanied by his wife about 20 minutes before it was scheduled to begin. I interviewed Mr. Karam alone. Before beginning the evaluation I informed Mr. Karam that the examination was an Independent Psychiatric Evaluation. I clarified that I was not establishing a doctor-patient relationship and would be offering him no medical advice.

Pertinent History:

Mr. Karam describes feeling like a "bouncing ball" over the past nearly 25 years during his work as a Sheriff's Department officer feeling affected and stressed by many different types of stressors. He attributes a variety of physical complaints to the stresses including: "Acid reflux"; ocular migraines; temporomandibular joint symptoms; tremors; and bowel difficulties. He

also reports feelings of depressed moods, fatigue, anxiety, panic, and anhedonia associated with the stresses. His difficulties increased in the summer of 2012 and culminated in increased difficulty with chewing and movement of his jaw. After a brief absence from work he returned only to describe a more severe incident occurring on 8/26/12 when he was unable to chew or eat his breakfast. After consulting his primary care physician's office on 9/04/12 where he was seen Deborah Hildreth, RPA-C he was given a prescription stating that he would be "out of work until further notice". He has not returned to work since that time.

After the August incident Mr. Karam was seen for psychotherapy at Karner Psychological Associates by Karen Miscavage, L.M.H.C. for evaluation 9/03/12 and one followup psychotherapy session 9/04/12. He then was seen by June Morier, L.C.S.W.-R. for 2 psychotherapy sessions 9/05/12 and 9/12/12. The diagnosis was not clearly stated in the records but references were made to "PTSD", anxiety, and "dep.". The Case Note completed by Ms. Morier for the session of 9/12/13 notes "9/20-appt cn-a counselor through work". No records from a subsequent counselor were available for review. Subsequently, Mr. Karam was seen for a psychological evaluation 10/08/12 by Richard E. Ovens, Psy.D. who diagnosed Mr. Karam with: Axis I: 309.81 Posttraumatic Stress Disorder, Chronic and Severe; 311 (sic) Major Depressive Disorder, Chronic; Axis II V 71.09 No diagnosis; Axis III ICD K76.0 Fatty (change of) Liver; ICD 25.0 Essential Tremor; ICD K21 Gastric Reflux Disease; ICD K76.0 Temporomandibular Joint Disorder; ICD G 43.81 Ocular Migraine; Axis IV Occupational Problems: Unable to Return to Work; Axis V GAF 50 Serious Occupational Impairment Due to PTSD symptoms. (No records of treatment by Dr. Ovens were available for review although Mr. Karam, in the Rensselaer County Correctional Facility Incident Report completed 10/31/12, reports that he saw Dr. Ovens for "several sessions".) After 10/31/12 Mr. Karam reports seeing Dr. Ovens weekly but he was not sure how long he saw Dr. Ovens. During the evaluation Mr. Karam outlined a number of stressors he felt were associated with his work as a Sheriff's Deputy. He described an incident in 1989 where there was an allegation of deputies using excessive force resulting in a civil trial; in 1990 he described being assaulted by an inmate, David Francis; he remembers an incident where an inmate had razor blades and required Mr. Karam and other deputies to restrain him; an incident in 1991 where he was involved in transporting a prisoner who had had a myocardial infarction (Mr. Karam describes feeling guilty and worried that he might have caused some of the inmates' problems); difficulties encountered with the transfer in 1992 from an older County Jail structure to the new County Jail structure including some difficulties with training and computer systems; a prominent incident in February of 1993 involving a riot at the jail where he remembers being asked to organize "perimeter coverage" during the riot where he feared he would be attacked by escaping inmates; a lawsuit in about 2004 involving complaints about "strip searches" which Mr. Karam reports "divided the staff"; the suicide of another Sheriff Deputy in 2002; difficulties dealing with "a new chief", Ruth Vriber; and difficulties dealing with a "nursing supervisor" Mr. Karam feels "who almost killed some inmates". In describing his symptoms Mr. Karam reports depressed moods and anxiety. The depressed moods are accompanied by anhedonia, fatigue, occasional weeping, withdrawal, decreased interest in previously enjoyable activities, and some problems with concentration. He reports his sleep has been disturbed with onset delay and midphase waking as well as shortened cycle where he estimates that he sleeps 4 1/2-5 hours per night. His appetite has also fluctuated. During the months before he left work he remembers his appetite decreasing but he then reported an increase in his appetite after not working. He currently reports his weight as 185 pounds (height= 5' 10") with a fluctuation being up to 200 pounds in the fall of 2012. He has noticed decreased interest in sexual relations as well as difficulty with erections. He denies difficulty with ejaculation. Mr. Karam denies a history of delusions, hallucinations, or illusions. He denies a history of suicidal ideas or thoughts of self-harm. He also denies a history of homicidal ideas or thoughts of harming another. There is no history of manic-like symptoms.

The anxious symptoms are described as worry, panic-like symptoms, and fears about his future. He has additional complaints of recollections of fearful incidents where he feared he might be killed or harmed and where others might be killed or harmed. These thoughts can intrude during the day as well as disrupt his sleep. He does have some sense of foreshortened future.

At the time of the interview Mr. Karam reports that the level of his depressed moods, anxiety, and associated somatic symptoms is reduced from what he experienced in the fall of 2012. He currently described feeling concerned about whether he will be able to support himself without working and without disability income.

Family Psychiatric History:

Maternal Family: None known.

Paternal Family: None known.

Siblings: None known.

Children: None known.

Family and Social History:

Mr. Karam reports being born and raised in Troy, New York. His parents were of Lebanese heritage. His father who died in 1984 is described as a man who worked primarily as a grocer and struggled to make a living. His mother who died at age 74 from Parkinson's disease is described as a woman who spoke 3 languages but was not formally educated. The patient remembers good relationships with both of his parents. The parents separated when Mr. Karam was 2 years old and later divorced. Mr. Karam has 6 siblings including 2 sisters and 4 brothers. He describes having good relationships with his siblings except for his brother, Michael, with whom he feels estranged. After his parents separated the family struggled with his mother trying to take care of all of the children.

Developmental History: As noted Mr. Karam describes the early separation of his parents complicated by poverty. He did remember good relationships with his siblings and the relationships have remained close except for the relationship with Michael.

Educational History: Mr. Karam attended Catholic schools from kindergarten through 12th grade. He remembers being an average student. After graduating high school he attended Hudson Valley Community College where he studied Criminal Justice. He described continuing classes from 1992-2007 when he finally graduated with the degree of Associate in Applied Science. He also participated in a variety of training programs through the Sheriff's Department for which he has a variety of training certificates.

Occupational History: Mr. Karam was hired by the Rensselaer County Sheriff's Department on August 20, 1998. He has worked continuously for the Sheriff's Department first as a deputy, later promoted to sergeant, and after 2004 as a lieutenant. He has duties have involved working in the jail, working in training programs, and working in some internal affairs activities.

Relationship History:

Friendships: Mr. Karam describes feeling that he has had an adequate circle of friends throughout his childhood and through his adulthood.

Romantic and Sexual: Mr. Karam remembers beginning dating in high school. He reported "a couple of long-term relationships and a few short ones". He met and began dating the woman he would marry in 1991. The couple married in 1993 and they have 2 children, a daughter Elizabeth, age 16 and a son, Joseph, age 11. Mr. Karam denies any sexual difficulties until he experienced some decreased interest and difficulty with direction over the past few months. He also denied any adverse sexual experiences.

Pertinent Medical History:

Mr. Karam's personal physician is Lisa Thorn, M.D., Capital Care Medical Group, Averill Park, New York. He also has been seen by Deborah Hildreth, RPA-C

Allergies: Mr. Karam reports no known drug allergies. He also denies any history of exogenous/environmental allergies.

Current Nonpsychiatric Medications: None. He does report that he had been taking pantoprazole for gastroesophageal reflux disorder symptoms but has not been taking it recently. He also occasionally takes melatonin.

Previous Illness: Mr. Karam describes the history of gastroesophageal reflux disorder which he remembers as being very severe in 2012; he has the history of "ocular migraines" which produced both headaches and visual distortions; he describes a history of temporomandibular joint symptoms including pain, difficulty chewing, and difficulty eating; he has the history of hepatic problems variously diagnosed as "chronic persistent hepatitis (571.41), hemochromatosis, cirrhosis, and "fatty liver"; he reports the diagnosis of "essential tremor" as well.

Nonpsychiatric Hospitalizations: Denies

Surgeries: Denies.

History of Head Trauma: Denies.

History of Seizures: None.

Family Medical History:

Maternal Family: Mr. Karam reports that his mother had the history of hypothyroidism and later in life developed Parkinson's disease from which she finally died at age 74.

Paternal Family: Mr. Karam reports that his father had arteriosclerotic cardiovascular disease and died from a myocardial infarction at age 55 in 1984

Siblings: Noncontributory.

Children: Noncontributory.

Substance Abuse History:

Alcohol: Mr. Karam describes himself as a social drinker of alcohol. Usually he drinks "a couple of beers" twice a week. Sometimes the amount increases in the summer on weekends.

Other Substances of Abuse: Denies use of other substances of abuse.

No history of treatment for Substance Abuse.

Mental Status Examination:

Appearance: Mr. Karam appeared as a casually dressed, well-groomed, Caucasian male who appeared about his stated age. He ambulated easily into the room without evidence of gait disturbance.

Attitude: Mr. Karam's attitude was slightly guarded and hypervigilant.

Motor Activity: There was no evidence of increased or decreased psychomotor activity.

Speech: Mr. Karam had no evidence of dysarthria, dysphonia, or abnormal cadence. At times his speech was slightly pressured and it was difficult to interrupt him occasionally.

Mood: Slightly anxious and slightly depressed.

Affect: Mr. Karam was tense at times with some worry and expressions of frustration; he used humor well; he was occasionally angry; at one point he was tearful; the affect was appropriate to thought content throughout the interview.

Thought Content: There was no evidence of delusions, hallucinations, or illusions. Mr. Karam had no current evidence of suicidal ideas or thoughts of self-harm. He also had no evidence of homicidal ideas or thoughts of harming another. He focused on descriptions of a long series of what he considered were the work stresses, the multiple somatic complaints, and the difficulty with handling the depressed and anxious feelings. He was very concerned about his ability to support his family and the process of applying for disability.

Thought Processes:

Orientation: Mr. Karam was oriented to person, place, time, and situation.

Associations: No evidence of tangential or loose associations. No flight of ideas. Mr. Karam did have some circumstantiality with a somewhat rigid need to detail the stressful events over the past 25 years of work. It was difficult for him to summarize information and when we shifted subject he returned to continue relisting the various occupational stresses.

Memory: Immediate: Mr. Karam had no difficulty reciting 7 digits forward and 5 in reverse. He was able to remember 3 random objects immediately but only 2 after 3 minutes. He easily followed the conversation with no lapses in memory.

Recent: He was able to remember both personal and public events over the last several weeks with no significant absences. This included descriptions of recent headlines and public concerns including local and national sports and political concerns.

Remote: Mr. Karam was able to remember both public and personal events in the remote past including the dates of his marriage, his school history, and employment details as noted. He was able to recite presidents back to President Kennedy. He knew the President is Obama; Vice President is Biden; the governor of New York is Cuomo. The New York senators are Gillibrand and Schumer.

Concentration: Intact during the interview.

Attention: Intact during the interview.

Abstract Thinking: Intact during the interview.

Calculations: Additions intact with complex figures including. Multiplication intact with fairly complex multiplications including $11 \times 12 = 132$. Subtraction intact with fairly complex figures. Division intact with fairly complex figures including $108/12 = 9$. Knew the square roots of 49 and 144.

Similarities: Apple/orange=fruit; bicycle/locomotive=methods of transportation; statue and painting = art; butterfly/pine tree=living things/nature.

Proverbs: "2 heads are better than one"=people cooperating helps; "stitch in time saves 9"=fix problems early to avoid bigger difficulties.

Mini-Mental Status Exam Score=30/30

Diagnostic Summary:

Mr. Karam presents with a history of multiple stresses associated with his employment which have been associated with waxing and waning symptoms of depressed moods, vivid memories of the stressful incidents, and associated anxiety, hypervigilance, and dysphoria. He does report associated flat and dulled feelings accompanied by fatigue, difficulty concentrating, anhedonia, and some avoidance behaviors. In addition, he has described somatic problems including temporomandibular joint symptoms of pain and limitation of motion, migraine headaches, and gastroesophageal reflux disorder. These symptoms appear to be influencing the psychological symptoms and appear to be influenced by the

psychological symptoms. Mr. Karam does not have a family history of affective illness or affective spectrum illness such as alcohol abuse. Mr. Karam does not appear to have recurrent episodes of major depressive disorder symptoms. Instead he appears to have depressed moods and anxiety which have been diagnosed as "311.00 (sic) Major Depressive Disorder, Chronic", "Depression 311", and "Anxiety Disorder, NOS 300.00". At the time of the evaluation Mr. Karam appeared to be experiencing mild to moderate symptoms of anxiety and depressed moods. He continued to describe some recurring memories of stressful incidents with associated hypervigilance and dysphoria despite not working since 8/29/12. The difficulties with sleep, appetite, and sexual interest/dysfunction were associated with the depressed symptoms occurring in 2012. Sleep disruption has improved and appetite disruption has also improved. Mr. Karam continues to experience some diminished interest in sexual relations and continues to experience some erectile dysfunction. With the interval between the last day of work and the time of the evaluation it does appear that the severity of the depressed moods, associated neurovegetative signs of sleep, appetite, and sexual interest/dysfunction, and anxiety have diminished to current levels of mild to moderate. I think the most reasonable diagnoses appear to be Posttraumatic Stress Disorder, Chronic (309.81) and Depressive Disorder, NOS (311). It does not appear that a separate diagnosis for the anxiety is necessary or likely given that the anxious symptoms can readily be explained by the two other diagnoses. The associated medical conditions of Essential Tremor, Gastroesophageal Reflux Disorder, Temporomandibular Joint Disorder, and Migraine Headaches appear to be influenced by the psychological diagnoses and to influence the psychological diagnoses. The hepatic disorder diagnosed as "Chronic Persistent Hepatitis 571.41 (chronic liver disease and cirrhosis)" and "ICD K 76.0 Fatty (changes of) Liver" does not appear to be influenced by the psychological disorders and does not appear to be influencing the psychological disorders to any significant degree. There is some possibility that the hepatic condition could cause some depressive symptoms particularly if it was severe enough to produce elevations of BUN and serum ammonia levels. No records were available to assess the severity of the chronic liver disease.

DSM-IV Diagnosis:

Axis I: Posttraumatic Stress Disorder, Chronic (309.81); Depressive Disorder, NOS (311)
 Axis II: None identified.
 Axis III: Gastroesophageal Reflux Disorder; Essential Tremor; Temporomandibular Joint Disorder; Migraine Headaches; Chronic Persistent Hepatitis.
 Axis IV: Occupational, Health Care, Economic, and Legal Stresses-Judged to be Severe
 Axis V: Current GAF: 60 (Mr. Karam is functioning with symptoms in the mild to moderate range) Highest GAF in the Past Year: 65 (Mr. Karam has a history of functioning with mild to moderate symptoms within the past year.)

Discussion:

1. Mr. Karam has had significant symptoms associated with the Posttraumatic Stress Disorder and Depressive Disorder, NOS as noted above. It is notable that Mr. Karam has had very little psychological treatment for what he describes as very long-standing symptoms. Aside from the brief treatment of 3 sessions at Karner Psychological Associates and the "several weeks" of treatment with Dr. Owens he has had no other psychotherapy.
2. Mr. Karam does report being treated with psychotropic medications including the citalopram 20 mg p.o. q.d. and alprazolam 0.25 mg one p.o. b.i.d. p.r.n. According to the record and reports from Mr. Karam the medications were begun in September and he continues to take these medications although he reports using very little of the alprazolam.
3. Because of the limited treatment with both psychotherapy and medications it is difficult to judge the prognosis and level of chronic disability. Both the Posttraumatic Stress Disorder and Depressive Disorder, NOS do have evidence-based treatments with medications and various forms of psychotherapy. The prognosis with adequate therapy is likely to be favorable. As outlined in the report completed by Dr. Owens the psychotherapy is likely to provide specific relief of symptoms. In regards to the psychotropic medications it does appear that Mr. Karam has had less than adequate followup for the medication treatment. For example, the dose of the citalopram has remained stable without increase since Mr. Karam began the medication. Serotonin reuptake inhibitors such as citalopram generally are increased at regular intervals until symptom relief is achieved, adverse effects occur, or the maximum dose recommended for the medication is reached. This has not occurred with the medication treatment for Mr. Karam. In regards to the treatment with the benzodiazepine, alprazolam, the dose utilized is a very low dose for treating anxious symptoms related to the Posttraumatic Stress Disorder and/or anxious symptoms associated with the Depressive Disorder, NOS.

4. With the current moderate degree of symptoms which have improved some from the levels in September and October of 2012, a reasonable conclusion is that Mr. Karam may not have chronic disability associated with either of the two psychiatric diagnoses. With more adequate treatment he may be able to achieve adequate resolution of both of these psychiatric diagnoses which could potentially allow him to return to work. Despite the severity of the symptoms in the latter half of 2012, the Posttraumatic Stress Disorder did not appear to produce disability before 2012 despite the very long history of less severe symptoms.
5. The Posttraumatic Stress Disorder does appear to be predominantly related to the stresses encountered by Mr. Karam during his employment as a Sheriff's Deputy. The cause of the Depressive Disorder appears to be more multifaceted and associated with some of his nonpsychiatric medical illnesses. The stress of these medical illnesses has been considerable for Mr. Karam according to his reports and records reviewed. The Temporomandibular Joint Disorder, the Migraine Headaches, the Gastroesophageal Reflux Disorder, and the Chronic Persistent Hepatitis appear to be illnesses which can increase the level of affective (mood) symptoms.
6. Further assessment of the severity of the Chronic Persistent Hepatitis may offer further information about the potential contribution of the hepatitis to the affective symptoms. The cause of the Chronic Persistent Hepatitis does not appear to be related to the employment history and stresses.
7. Mr. Karam did not appear to have evidence for malingering or falsifying information during this evaluation.

If there are any questions about the circumstances of the evaluation or content of this report please feel free to contact me.

Sincerely,



Russell Denea, M.D., DLFAPA



UNITED PUBLIC SERVICE EMPLOYEES UNION
 21 Aviation Road • Albany • NY • 12205
 (518) 729-4805 • Fax: (518) 729-4956
 www.upseu.org

GRIEVANCE FORM RENSSELAER COUNTY United Public Service Employees Union

Name: Class Action	File # G12072	Date: 11/30/2012
Address: UPSEU, 21 Aviation Road		Phone: 729-4805
City: Albany	State: NY	Zip: 12205
Employer: Rensselaer County		Phone:
Title:		Dept.:
Supervisor:		Location:
NATURE OF GRIEVANCE: (Explain and give details)		
<p>On or about November 30, 2012 it became known that bargaining unit employees were not being allowed to donate sick leave to an unrepresented County employee (James Karam) pursuant to the provisions of Addendum VI of the collective bargaining agreement.</p> <p>The applicable policy specifically states: "Voluntary contributions of sick leave accrual and/or vacation leave accrual may be made to an individual's sick bank by employees represented by the collective bargaining unit and by employees who are not represented by a collective bargaining unit."</p>		
Business Representative: Kathy A. Wright		
Remedy Sought:		
<ol style="list-style-type: none"> 1. Allow the donations per the provisions of the agreement. 2. Make all affected employees whole in everyway 		

MISO18.KEB/ljb

PLAINTIFF'S
 EXHIBIT NO. KJ 4
 FOR IDENTIFICATION
 DATE 12/23/14 RPTR: MEI

HEADQUARTERS
 3555 Veterans Hwy. Sta. H, Ronkonkoma, NY 11779
 (631) 738-8773

ONEIDA COUNTY
 288 Genesee Street, Utica, NY 13502
 (315) 798-8934

FRANKLIN COUNTY
 232 West Main Street, Malone, NY 12953
 (518) 481-4240

UPSEU ALERT

RENSSELAER COUNTY

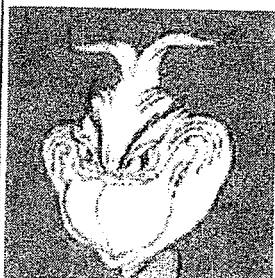
SPECIAL EDITION SEPTEMBER 2014

UPSEU'S GRIEVANCE PRESSURES SHERIFF TO AWARD DISABILITY & BACKPAY

Two days before an arbitration was to be held regarding the Sheriff's refusal to credit long-time Sheriff's Department Lieutenant James Karam with sick and vacation accruals donated from UPSEU members, UPSEU was notified that after 10 long months, Rensselaer County Sheriff Jack Mahar was finally granting James Karam his long awaited disability application.

"This long awaited decision means a couple of things," said UPSEU Regional Coordinator, Kathy A. Wright-Muzio. "First and foremost, it means Jim was made whole for all of the time he has been off the payroll since last year and that he will receive his 207c disability rights under the law. It also means that the time our members so generously offered to donate will no longer be needed because of the back pay award so, that time will remain in the respective employees' accruals balances."

Jim and his wife, UPSEU member Lisa expressed their deep appreciation and gratitude for UPSEU's efforts in pushing this issue as well as their thanks to the many UPSEU members who so generously offered their time.



THERE'S A GRINCH IN RENSSELAER COUNTY

UPSEU has had to file a grievance because Sheriff Jack Mahar has refused to allow our members to donate over 500 hours of sick leave to a long-time (25 year) employee of the Sheriff's Department, James Karam who is in need.

While Mr. Karam is not a member of UPSEU, he is eligible for the donated leave because the UPSEU Sick Bank agreement allows for UPSEU members to donate to members of the bargaining unit as well as unrepresented employees of the County. Additionally, Mr. Karam is family to UPSEU because he is also the husband of a UPSEU member.

The Sheriff has attempted to excuse his actions under the guise that he does not believe Mr. Karam is eligible and therefore, is not entitled to the leave time. UPSEU's agreement, however, specifically allows the donation and does not give the Sheriff the right to deny the donations. Equally more interesting is that Mr. Karam has been out of work sick since late August yet, the Sheriff never questioned his leave until Mr. Karam was within days of drawing on the last of his accrued time in early December. As of the first week of December and to date, Mr. Karam has been without pay.

UPSEU Representatives and President Kevin E. Boyle have worked tirelessly and relentlessly to get this matter resolved before the Christmas Holiday but the Sheriff remains rigid and unwilling to change his position without formal litigation; a process that will unfold long after the holiday.

Absent a Christmas miracle, the next step in the UPSEU grievance process is a legal review for formal arbitration. Additionally, Mr. Karam may also have to file a personal lawsuit against the County to force the Sheriff to award him the disability benefits the Sheriff has failed to award as well.

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September 16, 2013

Honorable Kathleen Jimino
Rensselaer County Executive
1600 7th Avenue
Troy, New York 12180

RE: Case Number A2012-413
County of Rensselaer and UPSEU (County Employees)
(Leave Donation Policy - Class Action G-12072)

Dear County Executive Jimino

In settling the above captioned and electing not to proceed to Arbitration, UPSEU does not modify its position held throughout the grievance procedure and during the arbitration process, that being that the provisions of "Addendum VI Sick and Vacation Leave Donation Policy" memorialized in the Collective Bargaining Agreement (hereinafter referred to as the CBA) between the parties covering the period January 1, 2010 to December 31, 2013 at page 67-68 remains in full force and unmodified.

UPSEU reaffirms that both Rensselaer County and UPSEU are bound by all the provisions of the CBA, and in this particular instance, by all the provisions of the Addendum VI that allows any employee covered by the CBA to designate and contribute sick leave or vacation time to any County employee, including, but not limited to, persons represented or not represented by collective bargaining agreements with the County of Rensselaer.

It is the continuing position of UPSEU that both parties to the CBA are bound by its provisions, not withstanding any decision(s) made in the instant arbitration settling the issue raised in the grievance.

Sincerely,


Kevin E. Boyle, Jr.
President

pc: Kathy A. Wright-Muzio
Jamison Facteau
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